Burgos, Alexander N

Subject: FW: [External] RE: Filing of 12 NCAC 10B .0305

From: Ascher, Seth M <seth.ascher@oah.nc.gov>
Sent: Tuesday, October 27, 2026 4:15 PM
To: Pendergraft, Robin <rpendergraft@ncdoj.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] RE: Filing of 12 NCAC 10B .0305

Robin,

Regarding this rule for the November RRC meeting, I have reviewed the updated rule changing the effective date, and I do not have in requests for changes.

I do want to flag that you cross reference the agency definition of good moral character in rule .0301, a rule not currently before the Commission. In light of the SCNC decision in *Devalle v. Sherrif's Education* from last year (https://www.nccourts.gov/documents/appellate-court-opinions/devalle-v-nc-sheriffs-educ-training-standards-commn-0), the RRC is likely to have clarity concerns about that definition. Something to keep in mind as you prepare for readoption or if you are working on .0301 in the near future.

Seth Ascher
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984) 236-1934

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.

Burgos, Alexander N

Subject: FW: [External] RE: October RFC for SHETS

From: Ascher, Seth M <seth.ascher@oah.nc.gov>
Sent: Monday, October 26, 2026 2:20 PM
To: Pendergraft, Robin <rpendergraft@ncdoj.gov>; Jones, Sirena C <scjones@ncdoj.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; STRICKLAND, JENNIFER J <jstrickland@ncdoj.gov>
Subject: Re: [External] RE: October RFC for SHETS

Thanks Robin,

I believe this addresses the issue and anticipate recommending approval. I'll be in touch if something else comes up.

Seth Ascher
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984) 236-1934

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.

Burgos, Alexander N

Subject: FW: [External] RE: October RFC for SHETS
Attachments: 12 NCAC 10B .0204 Suspension Revocation or Denial of Certification.doc; 12 NCAC 10B .0205 Period of Suspension, Revocation, or Denial.doc

---

From: Pendergraft, Robin <rpendergraft@NCDOJ.GOV>
Sent: Monday, October 26, 2026 2:10 PM
To: Ascher, Seth M <seth.ascher@oah.nc.gov>; Jones, Sirena C <scjones@ncdoj.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; STRICKLAND, JENNIFER J <jstrickland@ncdoj.gov>
Subject: RE: [External] RE: October RFC for SHETS

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.

Seth
Attached are the rules modified as agreed.
Thanks
Robin

From: Pendergraft, Robin
Sent: Monday, October 26, 2026 2:00 PM
To: Ascher, Seth M <seth.ascher@oah.nc.gov>; Jones, Sirena <Scjones@ncdoj.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Strickland, Joy <jstrickland@NCDOJ.GOV>
Subject: RE: [External] RE: October RFC for SHETS

Seth
Both Commissions have the same rule and I believe that changing the language from "authorized" to "maximum" is a sound approach. I will modify .0204 and .0205 and resend to you today.
Robin

12 NCAC 10B .0204 is amended with as published in 41:01 NCR 8-16 with changes as follows:

12 NCAC 10B .0204 SUSPENSION: REVOCATION: OR DENIAL OF CERTIFICATION

(a) The Commission shall revoke or deny the certification of a justice officer when the Commission finds that the applicant for certification or the certified officer has committed or been convicted of:

(1) a felony; or

(2) a crime for which the ~~authorized~~ maximum punishment could have been imprisonment for more than two years.

(b) The Commission shall revoke, deny, or suspend the certification of a justice officer when the Commission finds that the applicant for certification or the certified officer:

(1) has not enrolled in and satisfactorily completed the required basic training course in its entirety within a one year time period as specified by the rules in this Subchapter;

(2) fails to meet or maintain any of the employment or certification standards required by 12 NCAC 10B .0300;

(3) fails to satisfactorily complete the in-service training requirements as presented in 12 NCAC 10B .2000 and .2100 or 12 NCAC 09E .0100;

(4) has refused to submit to the drug screen as required by the rules in this Chapter or the rules of the Criminal Justice Education and Training Standards Commission or has refused to submit to an in-service drug screen pursuant to the guidelines set forth in the Drug Screening Implementation Guide as required by the employing agency through which the officer is certified;

(5) has produced a positive result on any drug screen reported to the Commission as specified in 12 NCAC 10B .0410 or reported to any commission, agency, or board established to certify, pursuant to said commission, agency, or boards' standards, a person as a justice officer, a corrections officer as defined in 12 NCAC 09G .0102 or a criminal justice officer as defined in 12 NCAC 09A .0103(7), unless the positive result is due to a medically indicated cause.

(c) The Commission may revoke, deny, or suspend the certification of a justice officer when the Commission finds that the applicant for certification or certified justice officer:

(1) has knowingly made a material misrepresentation of any information required for certification or accreditation from the Commission or the North Carolina Criminal Justice Education and Training Standards Commission. This Subparagraph also applies to obtaining or attempting to obtain in-service firearms requalification as required by 12 NCAC 10B .2000 and .2100;

(2) has knowingly and designedly by any means of false pretense, deception, fraud, misrepresentation or cheating whatsoever, obtained or attempted to obtain credit, training or certification from the Commission or the North Carolina Criminal Justice Education and Training Standards Commission. This Subparagraph also applies to obtaining or attempting to obtain in-service firearms requalification as required by 12 NCAC 10B .2000 and .2100;

(3) has knowingly and designedly by any means of false pretense, deception, fraud, misrepresentation or cheating whatsoever, aided another in obtaining or attempting to obtain credit, training, or certification from the Commission or the North Carolina Criminal Justice Education and Training Standards Commission. This Subparagraph also applies to obtaining or attempting to obtain in-service firearms requalification as required by 12 NCAC 10B .2000 and .2100;

(4) has been removed from office by decree of the Superior Court in accordance with the provisions of G.S. 128-16 or has been removed from office by sentence of the court in accord with the provisions of G.S. 14-230; or

(5) has been denied certification or had such certification suspended or revoked by the North Carolina Criminal Justice Education and Training Standards Commission, or a similar North Carolina, out-of-state or federal approving, certifying or licensing ~~agency.~~ agency; or

(6) has engaged in sexual activity, whether in uniform of the employing agency or out of uniform,

(A) while on duty;

(B) while on or off duty in a motor vehicle owned or under the control of a law enforcement agency;

(C) while on or off duty on the premises operated by the employing criminal justice agency;

(D) while in uniform of the employing agency in a public place;

(E) with an employee with whom the person had at the time supervisory responsibilities; or

(F) with a student who at the time is enrolled in a Commission-approved course in which the officer is an instructor, qualified assistant, or school director.

For purposes of this subsection, sexual activity includes any act defined as a sexual act or sexual contact per G.S. 14-27.20 ~~and includes~~ or vaginal intercourse; or

(7) has been found to be untruthful during a criminal or internal formal investigation conducted by a law enforcement agency or during an investigation for a rules violation conducted by the North Carolina Criminal Justice Standards Division, North Carolina Sheriffs' Standards Division, or the North Carolina Company and Campus Police Administrator.

(d) The Commission may revoke, suspend or deny the certification of a justice officer when the Commission finds that the applicant for certification or the certified officer has committed or been convicted of:

(1) a crime or unlawful act defined in 12 NCAC 10B .0103(17)(b) as a Class B misdemeanor and which occurred after the date of appointment;

(2) a crime or unlawful act defined in 12 NCAC 10B .0103(17)(b) as a Class B misdemeanor within the five-year period prior to the date of appointment;

(3) four or more crimes or unlawful acts defined in 12 NCAC 10B .0103(17)(b) as Class B misdemeanors regardless of the date of commission or conviction;

(4) an accumulation of four or more crimes or unlawful acts defined in 12 NCAC 10B .0103(17)(a) as a Class A misdemeanor, regardless of the date of commission or conviction except the applicant

shall be certified if the last conviction or commission occurred more than two years prior to the date of appointment; or

(5) any combination of four or more crimes or unlawful acts defined in 12 NCAC 10B .0103(17)(a) as a Class A misdemeanor or defined in 12 NCAC 10B .0103(17)(b) as a Class B misdemeanor regardless of the date of commission or conviction.

(e) Without limiting the application of G.S. 17E, a person who has had his certification suspended or revoked shall not exercise the authority or perform the duties of a justice officer during the period of suspension or revocation.

(f) Without limiting the application of G.S. 17E, a person who has been denied certification revoked shall not be employed or appointed as a justice officer or exercise the authority or perform the duties of a justice officer.

(g) If the Commission does revoke, suspend, or deny the certification of a justice officer pursuant to this Rule, the period of such sanction shall be as set out in 12 NCAC 10B .0205.

History Note: *Authority G.S. 17E-7;*
Eff. January 1, 1990;
Amended Eff. July 1, 1990;
Recodified from 12 NCAC 10B .0204 Eff. January 1, 1991;
Amended Eff. April 1, 1991; January 1, 1991;
Recodified from 12 NCAC 10B .0207 Eff. January 1, 1992;
Amended Eff. January 1, 2009; January 1, 2008; January 1, 2007; January 1, 2006; March 1, 2005; January 1, 2005; August 1, 1998; January 1, 1996; January 1, 1995; January 1, 1994; January 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018;
Amended Eff. November 1, 2026; December 1, 2023; February 1, 2023.

12 NCAC 10B .0205 is amended as published in 41:01 NCR 8-16 as follows:

12 NCAC 10B .0205 PERIOD OF SUSPENSION, REVOCATION, OR DENIAL

When the Commission suspends, revokes, or denies the certification of a justice officer, the period of sanction shall be:

(1) permanent where the cause of sanction is:

(a) commission or conviction of a felony;

(b) commission or conviction of a crime for which ~~authorized~~ the maximum punishment included imprisonment for more than two years; or

(c) the second revocation, suspension, or denial of an officer's certification for any of the causes requiring at least a five-year period of revocation, suspension, or denial as set out in Item (2) of this Rule.

(2) not less than five years where the cause of sanction is:

(a) commission or conviction of offenses as specified in 12 NCAC 10B .0204(d)(1);

(b) material misrepresentation of any information required for certification or accreditation from the Commission or the North Carolina Criminal Justice Education and Training Standards Commission. A material misrepresentation is a false representation of fact or omission of fact reported to or required to be reported to the Commission that if the true fact were known would have induced or caused the Commission to have treated the individual's certification or application for certification differently;

(c) knowingly and designedly by any means of false pretense, deception, fraud, misrepresentation or cheating, obtained or attempted to obtain credit, training or certification from the Commission or the North Carolina Criminal Justice Education and Training Standards Commission;

(d) knowingly and designedly by any means of false pretense, deception, fraud, misrepresentation or cheating, aiding another in obtaining or attempting to obtain credit, training, or certification from the Commission or the North Carolina Criminal Justice Education and Training Standards Commission. This Sub-Item also applies to obtaining or attempting to obtain credit for in-service training as required by 12 NCAC 10B .1700, .1800, .2000, or .2100;

(e) failure to make ~~either~~ any of the notifications as required by 12 NCAC 10B .0301(13);

(f) removal from office under the provisions of G.S. 128-16 or the provisions of G.S. 14-230;

(g) a positive result on a drug screen, refusal to submit to drug testing as required by the rules in this Chapter or the rules of the Criminal Justice Education and Training Standards Commission, or refusal to submit to an in-service drug screen pursuant to the guidelines

set forth in the Drug Screening Implementation Guide as required by the employing agency through which the officer is ~~certified.~~ certified;

(h) engaging in sexual activity outlined in .0204(c)(6) of this Subchapter; or

(i) untruthfulness during a criminal or internal formal investigation conducted by a law enforcement agency or during an investigation for a rules violation conducted by the Division, the Company and Campus Police Administrator, or the Criminal Justice Standards Division as outlined in 12 NCAC 10B .0204(c)(7).

The Commission may either reduce or suspend the periods of sanction under this Item or substitute a period of probation in lieu of revocation, suspension, or denial following an administrative hearing. This authority to reduce or suspend the period of sanction may be utilized by the Commission when extenuating circumstances brought out at the administrative hearing warrant such a reduction or suspension.

(3) for an indefinite period, but continuing so long as the stated deficiency, infraction, or impairment continues to exist, where the cause of sanction is:

(a) failure to meet or satisfy relevant basic training requirements pursuant to Sections .0500, .0600, and .1300 of this Subchapter.

(b) failure to meet or maintain the minimum standards of employment or certification pursuant to 12 NCAC 10B .0301;

(c) failure to meet or satisfy the in-service training requirements as prescribed in 12 NCAC 10B .2000 or .2100 or 12 NCAC 09E .0100;

(d) commission or conviction of offenses as specified in 12 NCAC 10B .0204(d)(2), (3), (4) and (5); or

(e) denial, suspension, or revocation of certification pursuant to 12 NCAC 10B .0204(c)(5).

The Commission may either reduce or suspend the periods of sanction where revocation, denial, or suspension of certification is based upon a finding of a violation of 12 NCAC 10B .0204(d) or substitute a period of probation in lieu of revocation, suspension, or denial following an administrative hearing. This authority to reduce or suspend the period of sanction may be utilized by the Commission when extenuating circumstances brought out at the administrative hearing warrant such a reduction or suspension.

History Note: *Authority G.S. 17E-4; 17E-7; 17E-9;*
Eff. January 1, 1991;
Recodified from 12 NCAC 10B .0208 Eff. January 1, 1992;
Amended Eff. January 1, 2013; January 1, 2009; January 1, 2008; January 1, 2007; January 1, 2006; March 1, 2005; January 1, 1995; January 1, 1994; January 1, 1993; January 1, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018;
Amended Eff. November 1, 2026; January 1, 2023.

Burgos, Alexander N

Subject: FW: [External] RE: October RFC for SHETS

From: Ascher, Seth M <seth.ascher@oah.nc.gov>
Sent: Monday, October 26, 2026 12:30 PM
To: Pendergraft, Robin <rpendergraft@ncdoj.gov>; Jones, Sirena C <scjones@ncdoj.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; STRICKLAND, JENNIFER J <jstrickland@ncdoj.gov>
Subject: Re: [External] RE: October RFC for SHETS

Robin,

A question came up from a Commissioner on these rules that potentially opened up an issue. The issue relates to the clarity of "crimes for which authorized punishment included imprisonment for more than two years". The Commission looked at similar language in last month's meeting for CJETS, which had a similar issue. You can see the discussion in tab 6 on last month's agenda: https://www.oah.nc.gov/news/events/rrc-meeting-agenda-september-2026. That language shows up in your rules 12 NCAC 10B .0204 on line 8 and 12 NCAC 10B .0205 line 8.

The issue specifically related to clarity about whether these provisions considered prior criminal history and consistency with G.S. 15A-1340.13(c) and .17(c). That discussion appears on p. 87 and p. 98 here: https://www.oah.nc.gov/media/19128/download?attachment

If you have the same meaning, and agree with what CJETS did, there is a simple fix to change "authorized" to "maximum" in 12 NCAC 10B .0204 line 8 and 12 NCAC 10B .0205 line 8. If that is not the approach you want to take (or you have a different standard you are meaning to impose), please propose how to clarify this issue.

Let me know if you have any further questions.

Seth Ascher
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984) 236-1934

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.

Burgos, Alexander N

Subject: FW: [External] RE: October RFC for SHETS

From: Ascher, Seth M <seth.ascher@oah.nc.gov>
Sent: Thursday, October 15, 2026 4:09 PM
To: Pendergraft, Robin <rpendergraft@ncdoj.gov>; Jones, Sirena C <scjones@ncdoj.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; STRICKLAND, JENNIFER J <jstrickland@ncdoj.gov>
Subject: Re: [External] RE: October RFC for SHETS

Robin,

With this update, I anticipate recommending approval of the final revised version of the rules. I'll let you know if anything comes up between now and the meeting.

Seth Ascher
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984) 236-1934

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.

Burgos, Alexander N

Subject: FW: [External] RE: October RFC for SHETS
Attachments: SHETS RFC October 2026.docx; 12 NCAC 10B .0204 Suspension Revocation or Denial of Certification.doc

From: Pendergraft, Robin <rpendergraft@NCDOJ.GOV>
Sent: Tuesday, October 13, 2026 1:55 PM
To: Ascher, Seth M <seth.ascher@oah.nc.gov>; Jones, Sirena C <scjones@ncdoj.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; STRICKLAND, JENNIFER J <jstrickland@ncdoj.gov>
Subject: [External] RE: October RFC for SHETS

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.

Hello Seth

You should find attached the response of the Sheriffs' Commission in red on the SHETS. We agree with your suggestions for Rule .0204. That rules as modified is also attached. All Commission forms are found in Rule 12 NCAC 10B .2201.

Please let me know if you have any further questions.

Thank you,
Robin

12 NCAC 10B .0204 is amended with as published in 41:01 NCR 8-16 with changes as follows:

12 NCAC 10B .0204 SUSPENSION: REVOCATION: OR DENIAL OF CERTIFICATION

(a) The Commission shall revoke or deny the certification of a justice officer when the Commission finds that the applicant for certification or the certified officer has committed or been convicted of:

(1) a felony; or

(2) a crime for which the authorized punishment could have been imprisonment for more than two years.

(b) The Commission shall revoke, deny, or suspend the certification of a justice officer when the Commission finds that the applicant for certification or the certified officer:

(1) has not enrolled in and satisfactorily completed the required basic training course in its entirety within a one year time period as specified by the rules in this Subchapter;

(2) fails to meet or maintain any of the employment or certification standards required by 12 NCAC 10B .0300;

(3) fails to satisfactorily complete the in-service training requirements as presented in 12 NCAC 10B .2000 and .2100 or 12 NCAC 09E .0100;

(4) has refused to submit to the drug screen as required by the rules in this Chapter or the rules of the Criminal Justice Education and Training Standards Commission or has refused to submit to an in-service drug screen pursuant to the guidelines set forth in the Drug Screening Implementation Guide as required by the employing agency through which the officer is certified;

(5) has produced a positive result on any drug screen reported to the Commission as specified in 12 NCAC 10B .0410 or reported to any commission, agency, or board established to certify, pursuant to said commission, agency, or boards' standards, a person as a justice officer, a corrections officer as defined in 12 NCAC 09G .0102 or a criminal justice officer as defined in 12 NCAC 09A .0103(7), unless the positive result is due to a medically indicated cause.

(c) The Commission may revoke, deny, or suspend the certification of a justice officer when the Commission finds that the applicant for certification or certified justice officer:

(1) has knowingly made a material misrepresentation of any information required for certification or accreditation from the Commission or the North Carolina Criminal Justice Education and Training Standards Commission. This Subparagraph also applies to obtaining or attempting to obtain in-service firearms requalification as required by 12 NCAC 10B .2000 and .2100;

(2) has knowingly and designedly by any means of false pretense, deception, fraud, misrepresentation or cheating whatsoever, obtained or attempted to obtain credit, training or certification from the Commission or the North Carolina Criminal Justice Education and Training Standards Commission. This Subparagraph also applies to obtaining or attempting to obtain in-service firearms requalification as required by 12 NCAC 10B .2000 and .2100;

(3) has knowingly and designedly by any means of false pretense, deception, fraud, misrepresentation or cheating whatsoever, aided another in obtaining or attempting to obtain credit, training, or certification from the Commission or the North Carolina Criminal Justice Education and Training Standards Commission. This Subparagraph also applies to obtaining or attempting to obtain in-service firearms requalification as required by 12 NCAC 10B .2000 and .2100;

(4) has been removed from office by decree of the Superior Court in accordance with the provisions of G.S. 128-16 or has been removed from office by sentence of the court in accord with the provisions of G.S. 14-230; or

(5) has been denied certification or had such certification suspended or revoked by the North Carolina Criminal Justice Education and Training Standards Commission, or a similar North Carolina, out-of-state or federal approving, certifying or licensing ~~agency.~~ agency; or

(6) has engaged in sexual activity, whether in uniform of the employing agency or out of uniform,

(A) while on duty;

(B) while on or off duty in a motor vehicle owned or under the control of a law enforcement agency;

(C) while on or off duty on the premises operated by the employing criminal justice agency;

(D) while in uniform of the employing agency in a public place;

(E) with an employee with whom the person had at the time supervisory responsibilities; or

(F) with a student who at the time is enrolled in a Commission-approved course in which the officer is an instructor, qualified assistant, or school director.

For purposes of this subsection, sexual activity includes any act defined as a sexual act or sexual contact per G.S. 14-27.20 ~~and includes~~ or vaginal intercourse; or

(7) has been found to be untruthful during a criminal or internal formal investigation conducted by a law enforcement agency or during an investigation for a rules violation conducted by the North Carolina Criminal Justice Standards Division, North Carolina Sheriffs' Standards Division, or the North Carolina Company and Campus Police Administrator.

(d) The Commission may revoke, suspend or deny the certification of a justice officer when the Commission finds that the applicant for certification or the certified officer has committed or been convicted of:

(1) a crime or unlawful act defined in 12 NCAC 10B .0103(17)(b) as a Class B misdemeanor and which occurred after the date of appointment;

(2) a crime or unlawful act defined in 12 NCAC 10B .0103(17)(b) as a Class B misdemeanor within the five-year period prior to the date of appointment;

(3) four or more crimes or unlawful acts defined in 12 NCAC 10B .0103(17)(b) as Class B misdemeanors regardless of the date of commission or conviction;

(4) an accumulation of four or more crimes or unlawful acts defined in 12 NCAC 10B .0103(17)(a) as a Class A misdemeanor, regardless of the date of commission or conviction except the applicant

shall be certified if the last conviction or commission occurred more than two years prior to the date of appointment; or

(5) any combination of four or more crimes or unlawful acts defined in 12 NCAC 10B .0103(17)(a) as a Class A misdemeanor or defined in 12 NCAC 10B .0103(17)(b) as a Class B misdemeanor regardless of the date of commission or conviction.

(e) Without limiting the application of G.S. 17E, a person who has had his certification suspended or revoked shall not exercise the authority or perform the duties of a justice officer during the period of suspension or revocation.

(f) Without limiting the application of G.S. 17E, a person who has been denied certification revoked shall not be employed or appointed as a justice officer or exercise the authority or perform the duties of a justice officer.

(g) If the Commission does revoke, suspend, or deny the certification of a justice officer pursuant to this Rule, the period of such sanction shall be as set out in 12 NCAC 10B .0205.

History Note: *Authority G.S. 17E-7;*
Eff. January 1, 1990;
Amended Eff. July 1, 1990;
Recodified from 12 NCAC 10B .0204 Eff. January 1, 1991;
Amended Eff. April 1, 1991; January 1, 1991;
Recodified from 12 NCAC 10B .0207 Eff. January 1, 1992;
Amended Eff. January 1, 2009; January 1, 2008; January 1, 2007; January 1, 2006; March 1, 2005; January 1, 2005; August 1, 1998; January 1, 1996; January 1, 1995; January 1, 1994; January 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018;
Amended Eff. November 1, 2026; December 1, 2023; February 1, 2023.

Request for Changes Pursuant to N.C. Gen. Stat. § 150B-21.10

Staff reviewed these Rules to ensure that each Rule is within the agency's statutory authority, reasonably necessary, clear and unambiguous, and adopted in accordance with Part 2 of the North Carolina Administrative Procedure Act. Following review, staff has issued this document that may request changes pursuant to G.S. 150B-21.10 from your agency or ask clarifying questions.

If the request includes questions, please contact the reviewing attorney to discuss.

In order to properly submit rewritten rules, please refer to the following Rules in the NC Administrative Code:

- Rule 26 NCAC 02C .0108 – The Rule addresses general formatting.
- Rule 26 NCAC 02C .0404 – The Rule addresses changing the introductory statement.
- Rule 26 NCAC 02C .0405 – The Rule addresses properly formatting changes made after publication in the NC Register.

Note the following general instructions:

1. You must submit the revised rule via email to oah.rules@oah.nc.gov. The electronic copy must be saved as the official rule name (XX NCAC XXXX).
2. For rules longer than one page, insert a page number.
3. Use line numbers; if the rule spans more than one page, have the line numbers reset at one for each page.
4. Do not use track changes. Make all changes using manual strikethroughs, underlines and highlighting.
5. You cannot change just one part of a word. For example:
    - Wrong: "~~a~~Association"
    - Right: "~~association~~ Association"
6. Treat punctuation as part of a word. For example:
    - Wrong: "day~~,~~; and"
    - Right: "~~day,~~ day; and"
7. Formatting instructions and examples may be found at: https://www.oah.nc.gov/rule-format-examples

If you have any questions regarding proper formatting of edits after reviewing the rules and examples, please contact the reviewing attorney.

Seth Ascher
Commission Counsel
Date submitted to agency: October 12, 2026

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

AGENCY: Sheriffs' Education and Training Standards Commission

RULE CITATION: 12 NCAC 10B .0204

DEADLINE FOR RECEIPT: October 21, 2026

***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 p 2, lines 22, I think "or" makes more sense grammatically than "and includes". I.e. "per G.S. 14-27.20 ~~and includes~~ or vaginal".*
>
> We agree with your suggestion.

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

Seth Ascher
Commission Counsel
Date submitted to agency: October 12, 2026

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

AGENCY: Sheriffs' Education and Training Standards Commission

RULE CITATION: 12 NCAC 10B .0304

DEADLINE FOR RECEIPT: October 21, 2026

***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 lines 5 and 28, you require two forms (F-1 and F-2). Are the contents or substance of these forms specified by rule or statute? See RRC Guidance of Forms: https://www.oah.nc.gov/rrc-final-guidance-forms/open

Yes, the forms are included in Rule 12 NCAC 10B .2201 which lists the relevant content.

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

Seth Ascher
Commission Counsel
Date submitted to agency: October 12, 2026

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

AGENCY: Sheriffs' Education and Training Standards Commission

RULE CITATION: 12 NCAC 10B .0408

DEADLINE FOR RECEIPT: October 21, 2026

***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 lines 6 and 24, you require two forms (F-4 and F-3). Are the contents or substance of these forms specified by rule or statute? See RRC Guidance of Forms: https://www.oah.nc.gov/rrc-final-guidance-forms/open

Yes, the forms are included in Rule 12 NCAC 10B .2201 which lists the relevant content.

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

Seth Ascher
Commission Counsel
Date submitted to agency: October 12, 2026

Burgos, Alexander N

From: Ascher, Seth M
Sent: Monday, October 12, 2026 3:54 PM
To: Pendergraft, Robin; Jones, Sirena C
Cc: Burgos, Alexander N
Subject: October RFC for SHETS
Attachments: SHETS RFC October 2026.docx

Good afternoon,

I'm the attorney who reviewed the Rules submitted by the Sheriffs' Educations and Training Standards Commission for the October 2026 RRC meeting. The RRC will formally review these Rules at its meeting on Thursday, October 29, 2026, at 10:00 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 close to the meeting. If there are any other representatives from your agency who want to attend virtually, let me know prior to the meeting, and we will get evites out to them as well.

Attached is my initial Request for Changes Pursuant to G.S. 150B-21.10. Please submit your responses, the revised Rules, and forms to me via email, no later than 5 p.m. on October 21, 2026.

Please let me know if you have any questions of concerns.

Seth Ascher
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984) 236-1934

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.

Burgos, Alexander N

Subject: FW: [External] RE: Filing of 12 NCAC 10B .0305
Attachments: 12 NCAC 10B .0305 Background Investigation.doc

From: Pendergraft, Robin <rpendergraft@NCDOJ.GOV>
Sent: Wednesday, October 7, 2026 3:37 PM
To: Ascher, Seth M <seth.ascher@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: [External] RE: Filing of 12 NCAC 10B .0305

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.

Seth
Since the new effective date for 10B .0305 will now be December 1 instead of November, I made that change for your review.
Robin

12 NCAC 10B. 0305 is amended as published in 41:01 NCR 8-16 with changes as follows:

12 NCAC 10B .0305 BACKGROUND INVESTIGATION

(a) Prior to employment, an agency shall complete a background investigation on all applicants for certification. The investigation shall determine whether the applicant is of good moral character pursuant to Rule .0301(12) of this Section. This examination includes completion of the Commission's 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). The agency shall then 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 experience or training in conducting background investigations. The investigator shall document the results of the investigation on the Mandated Background Investigation Form (F-8) which shall include information concerning the following:

(1) biographical information;

(2) family;

(3) education;

(4) employment;

(5) criminal history including:

(A) a statewide search of the Administrative Office of the Courts (AOC) computerized system;

(B) a search of the national criminal record database accessible through the Division of Criminal Information (DCI) network;

(C) where the applicant resided in a state other than North Carolina, a records check through the Division of Criminal Information (DCI) using the Out-of-State Computer Name Query (IQ) shall be accepted if the state will respond to an Out-of-State Computer Name Query. If not, then either a records check response from both the municipality, city, or town, where the applicant resided and the county-wide Sheriff's Office or Police Department obtained by mail, facsimile, or electronic mail, or a records check from the county-wide or state-wide record holding agency shall be acceptable;

(6) military service history. If the applicant had prior military service, the background investigation shall include a copy of the applicant's DD214, Certificate of Release from Active Duty, that shows the characterization of discharge for each discharge that occurred and military discipline received, if any. If the DD214 indicates a discharge characterization of any type other than Honorable, then a military records check for any arrests or charges from the military shall also be required;

(7) credit history;

(8) fingerprint criminal history records check results pursuant to Rule .0303 of this Section;

(9) driving history including a search of:

(A) the North Carolina Division of Motor Vehicles, if the applicant has ever possessed a driver's license in North Carolina; and

(B) an out-of-state- motor vehicles check obtained through the Division of Criminal Information (DCI) or obtained through another state's division of motor vehicles agency for any state in which the applicant held a license;

(10) prior applications to law enforcement agencies;

(11) civil court history;

(12) applicant interview;

(13) interviews with the applicant's references; and

(14) a summary of the investigator's findings and conclusions regarding the applicant's moral character known to the agency or listed on the applicant's Personal History Statement (F-3).

(d) If a criminal record is found, criminal records shall be obtained from the Clerk of Court, a law enforcement agency within the jurisdiction, or other governmental entity that maintains or has access to criminal records for the jurisdiction.

(e) Records checks shall be performed on each name by which the applicant for certification has been known since obtaining the age of ~~majority.~~ 18 years of age. If the applicant has had an official name change that occurred after the applicant reached the age of majority, then a copy of the legal document effecting the name change shall be obtained by the employing agency.

(f) The Mandated Background Investigation Form (F-8) shall be completed within 120 days of employment. If the investigator signs the form more than 120 days prior to the applicant's date of employment, then the investigator will certify with a notarized statement on their agency letterhead that all information on the form has been updated or a new F-8 shall be completed.

(g) The employing agency shall include a form or letter signed and notarized by the applicant 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 and authorizes entities maintaining such records to release them to the Division. A sample release authorization form is available on the Division's website at no cost: https://ncdoj.gov/law-enforcement-training/sheriffs/all-commission-forms-publications/.

(h) The employing agency shall provide to the Division staff 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/sheriffs/all-commision-forms-publications/.

(i) The applicant's notarized Personal History Statement (F-3) shall be completed within 120 days of employment. If the form is completed more than 120 days prior to the applicant's date of employment, the Personal History

Statement (F-3) shall be updated by the applicant, who shall initial and date all changes no more than 120 days prior to employment or a new Personal History Statement (F-3) shall be completed.

History Note: *Authority G.S. 17E-7;*
Eff. January 1, 1989;
Amended Eff. January 1, 2010; January 1, 2009; January 1, 2007; August 1, 2002; January 1, 1994; January 1, 1993; January 1, 1992; January 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018;
Amended Eff. ~~*November*~~ *December 1, 2026; February 1, 2025; April 1, 2023; January 1, 2023; June 1, 2021.*

Burgos, Alexander N

From: Pendergraft, Robin <rpendergraft@NCDOJ.GOV>
Sent: Monday, October 5, 2026 10:36 AM
To: Ascher, Seth M; Jones, Sirena C
Cc: Burgos, Alexander N
Subject: [External] RE: Filing of 12 NCAC 10B .0305

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.

Seth
Well darn. We will proceed with all the rules except .0305 this October and then address .0305 at the November RRC meeting.
Thanks
Robin

From: Ascher, Seth M <seth.ascher@oah.nc.gov>
Sent: Thursday, October 1, 2026 2:40 PM
To: Pendergraft, Robin <rpendergraft@NCDOJ.GOV>; Jones, Sirena <Scjones@ncdoj.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: Filing of 12 NCAC 10B .0305

EXTERNAL SENDER: This email originated from outside the organization. Do not click on links or open attachments unless you can validate the sender and the contents are safe.

Robin,

The text of rule 12 NCAC 10B .0305 was filed on September 23, after the statutory deadline (G.S. 150B-21.9(b)) to be on the agenda for the October meeting. As a result, it will need to go on RRC's November meeting agenda, which will also impact its effective date.

I plan to go ahead and review .0305 with the rest of your submission, even though it will be voted on at the November meeting.

It's up to you if you want to extend the review of all of your rules to November (with at least a December 1 effective date), let them have different effective dates, or push out the effective date of the rules on the agenda for October.

Seth Ascher
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984) 236-1934

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.