

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

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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

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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

1 12 NCAC 10B .0204 is amended with as published in 41:01 NCR 8-16 with changes as follows:
2
3

4 **12 NCAC 10B .0204 SUSPENSION: REVOCATION: OR DENIAL OF CERTIFICATION**

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

- 7 (1) a felony; or
8 (2) a crime for which the authorized punishment could have been imprisonment for more than two
9 years.

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

- 12 (1) has not enrolled in and satisfactorily completed the required basic training course in its entirety
13 within a one year time period as specified by the rules in this Subchapter;
14 (2) fails to meet or maintain any of the employment or certification standards required by 12 NCAC
15 10B .0300;
16 (3) fails to satisfactorily complete the in-service training requirements as presented in 12 NCAC 10B
17 .2000 and .2100 or 12 NCAC 09E .0100;
18 (4) has refused to submit to the drug screen as required by the rules in this Chapter or the rules of the
19 Criminal Justice Education and Training Standards Commission or has refused to submit to an in-
20 service drug screen pursuant to the guidelines set forth in the Drug Screening Implementation
21 Guide as required by the employing agency through which the officer is certified;
22 (5) has produced a positive result on any drug screen reported to the Commission as specified in 12
23 NCAC 10B .0410 or reported to any commission, agency, or board established to certify, pursuant
24 to said commission, agency, or boards' standards, a person as a justice officer, a corrections officer
25 as defined in 12 NCAC 09G .0102 or a criminal justice officer as defined in 12 NCAC 09A
26 .0103(7), unless the positive result is due to a medically indicated cause.

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

- 29 (1) has knowingly made a material misrepresentation of any information required for certification or
30 accreditation from the Commission or the North Carolina Criminal Justice Education and Training
31 Standards Commission. This Subparagraph also applies to obtaining or attempting to obtain in-
32 service firearms requalification as required by 12 NCAC 10B .2000 and .2100;
33 (2) has knowingly and designedly by any means of false pretense, deception, fraud, misrepresentation
34 or cheating whatsoever, obtained or attempted to obtain credit, training or certification from the
35 Commission or the North Carolina Criminal Justice Education and Training Standards
36 Commission. This Subparagraph also applies to obtaining or attempting to obtain in-service
37 firearms requalification as required by 12 NCAC 10B .2000 and .2100;

- 1 (3) has knowingly and designedly by any means of false pretense, deception, fraud, misrepresentation
2 or cheating whatsoever, aided another in obtaining or attempting to obtain credit, training, or
3 certification from the Commission or the North Carolina Criminal Justice Education and Training
4 Standards Commission. This Subparagraph also applies to obtaining or attempting to obtain
5 in-service firearms requalification as required by 12 NCAC 10B .2000 and .2100;
- 6 (4) has been removed from office by decree of the Superior Court in accordance with the provisions
7 of G.S. 128-16 or has been removed from office by sentence of the court in accord with the
8 provisions of G.S. 14-230; or
- 9 (5) has been denied certification or had such certification suspended or revoked by the North Carolina
10 Criminal Justice Education and Training Standards Commission, or a similar North Carolina, out-
11 of-state or federal approving, certifying or licensing ~~agency~~; agency; or
- 12 (6) has engaged in sexual activity, whether in uniform of the employing agency or out of uniform,
13 (A) while on duty;
14 (B) while on or off duty in a motor vehicle owned or under the control of a law enforcement
15 agency;
16 (C) while on or off duty on the premises operated by the employing criminal justice agency;
17 (D) while in uniform of the employing agency in a public place;
18 (E) with an employee with whom the person had at the time supervisory responsibilities; or
19 (F) with a student who at the time is enrolled in a Commission-approved course in which the
20 officer is an instructor, qualified assistant, or school director.
21 For purposes of this subsection, sexual activity includes any act defined as a sexual act or sexual
22 contact per G.S. 14-27.20 and includes or vaginal intercourse; or
- 23 (7) has been found to be untruthful during a criminal or internal formal investigation conducted by a
24 law enforcement agency or during an investigation for a rules violation conducted by the North
25 Carolina Criminal Justice Standards Division, North Carolina Sheriffs' Standards Division, or the
26 North Carolina Company and Campus Police Administrator.

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

- 29 (1) a crime or unlawful act defined in 12 NCAC 10B .0103(17)(b) as a Class B misdemeanor and
30 which occurred after the date of appointment;
- 31 (2) a crime or unlawful act defined in 12 NCAC 10B .0103(17)(b) as a Class B misdemeanor within
32 the five-year period prior to the date of appointment;
- 33 (3) four or more crimes or unlawful acts defined in 12 NCAC 10B .0103(17)(b) as Class B
34 misdemeanors regardless of the date of commission or conviction;
- 35 (4) an accumulation of four or more crimes or unlawful acts defined in 12 NCAC 10B .0103(17)(a) as
36 a Class A misdemeanor, regardless of the date of commission or conviction except the applicant

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

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

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

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

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

12
13 *History Note: Authority G.S. 17E-7;*

14 *Eff. January 1, 1990;*

15 *Amended Eff. July 1, 1990;*

16 *Recodified from 12 NCAC 10B .0204 Eff. January 1, 1991;*

17 *Amended Eff. April 1, 1991; January 1, 1991;*

18 *Recodified from 12 NCAC 10B .0207 Eff. January 1, 1992;*

19 *Amended Eff. January 1, 2009; January 1, 2008; January 1, 2007; January 1, 2006; March 1,*
20 *2005; January 1, 2005; August 1, 1998; January 1, 1996; January 1, 1995; January 1, 1994;*
21 *January 1, 1993;*

22 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*
23 *2018;*

24 *Amended Eff. November 1, 2026; December 1, 2023; February 1, 2023.*
25

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.

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.

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.

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.

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

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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

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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;

- 1 (8) fingerprint criminal history records check results pursuant to Rule .0303 of this Section;
- 2 (9) driving history including a search of:
- 3 (A) the North Carolina Division of Motor Vehicles, if the applicant has ever possessed a
- 4 driver's license in North Carolina; and
- 5 (B) an out-of-state- motor vehicles check obtained through the Division of Criminal
- 6 Information (DCI) or obtained through another state's division of motor vehicles agency
- 7 for any state in which the applicant held a license;
- 8 (10) prior applications to law enforcement agencies;
- 9 (11) civil court history;
- 10 (12) applicant interview;
- 11 (13) interviews with the applicant's references; and
- 12 (14) a summary of the investigator's findings and conclusions regarding the applicant's moral character
- 13 known to the agency or listed on the applicant's Personal History Statement (F-3).
- 14 (d) If a criminal record is found, criminal records shall be obtained from the Clerk of Court, a law enforcement
- 15 agency within the jurisdiction, or other governmental entity that maintains or has access to criminal records for the
- 16 jurisdiction.
- 17 (e) Records checks shall be performed on each name by which the applicant for certification has been known since
- 18 obtaining the age of ~~majority~~ 18 years of age. If the applicant has had an official name change that occurred after
- 19 the applicant reached the age of majority, then a copy of the legal document effecting the name change shall be
- 20 obtained by the employing agency.
- 21 (f) The Mandated Background Investigation Form (F-8) shall be completed within 120 days of employment. If the
- 22 investigator signs the form more than 120 days prior to the applicant's date of employment, then the investigator will
- 23 certify with a notarized statement on their agency letterhead that all information on the form has been updated or a
- 24 new F-8 shall be completed.
- 25 (g) The employing agency shall include a form or letter signed and notarized by the applicant that authorizes the
- 26 Division staff to obtain documents and records pertaining to the applicant for certification that may be required in
- 27 order to determine whether certification may be granted and authorizes entities maintaining such records to release
- 28 them to the Division. A sample release authorization form is available on the Division's website at no cost:
- 29 <https://ncdoj.gov/law-enforcement-training/sheriffs/all-commission-forms-publications/>.
- 30 (h) The employing agency shall provide to the Division staff the results of a completed and processed form AOC-
- 31 CR-280, Law Enforcement Application for Verification of Expunction under G.S. 15A-145.4, 15A-145.5, 15A-
- 32 145.6, 15A-145.8A or 15A-146, for each applicant presented for certification. The AOC-CR-280 form is available
- 33 on the Commission's website at no cost: [https://ncdoj.gov/law-enforcement-training/sheriffs/all-commission-forms-](https://ncdoj.gov/law-enforcement-training/sheriffs/all-commission-forms-publications/)
- 34 [publications/](https://ncdoj.gov/law-enforcement-training/sheriffs/all-commission-forms-publications/).
- 35 (i) The applicant's notarized Personal History Statement (F-3) shall be completed within 120 days of employment.
- 36 If the form is completed more than 120 days prior to the applicant's date of employment, the Personal History

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

3
4 *History Note: Authority G.S. 17E-7;*

5 *Eff. January 1, 1989;*

6 *Amended Eff. January 1, 2010; January 1, 2009; January 1, 2007; August 1, 2002; January 1,*
7 *1994; January 1, 1993; January 1, 1992; January 1, 1990;*

8 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*
9 *2018;*

10 *Amended Eff. ~~November~~ December 1, 2026; February 1, 2025; April 1, 2023; January 1, 2023;*
11 *June 1, 2021.*

12

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

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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