

Burgos, Alexander N

Subject: FW: [External] 12 NCAC 10B .0704

From: Bowman, Melissa <mbowman@NCDOJ.GOV>
Sent: Wednesday, September 27, 2023 4:01 PM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] 12 NCAC 10B .0704

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Thank you!
Melissa



Melissa Bowman
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Burgos, Alexander N

Subject: FW: [External] 12 NCAC 10B .0704

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Wednesday, September 27, 2023 3:09 PM
To: Bowman, Melissa M <mbowman@ncdoj.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] 12 NCAC 10B .0704

Thank you. It is my intention to recommend approval with the changes.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

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Burgos, Alexander N

Subject: FW: [External] 12 NCAC 10B .0704
Attachments: 12 NCAC 10B .0704 revision.docx

From: Bowman, Melissa <mbowman@NCDOJ.GOV>
Sent: Wednesday, September 27, 2023 2:26 PM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] 12 NCAC 10B .0704

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Good afternoon,

Please see the attached revision that we are hopeful addresses your remaining concern about this rule.

Thank you,
Melissa



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12 NCAC 10B .0704 is ~~amended~~ **adopted** with changes as published in 37:13 NCR 933-935:

12 NCAC 10B .0704 RESPONSIBILITIES: ~~SCHOOL~~ SCHOOLS ~~DIRECTORS, AND~~ DETENTION OFFICER COURSE COURSES

(a) In planning, developing, coordinating, and delivering any commission-certified Detention Officer Certification Courses, the school shall:

(1) Formalize and schedule the course curriculum in accordance with the curriculum standards established by the rules in this Chapter.

(A) Any Detention Officer Certification Course shall be presented with a minimum of 40 hours of instruction each week during consecutive calendar weeks until course requirements are completed, with the exception of weeks in which there are regularly scheduled holidays pursuant to G.S. 103-4.

(B) Upon written request by the school delivering a class, the Director shall grant a waiver of the minimum hours requirement to that particular delivery of the class when illness, adverse weather, staffing shortages at the school or law enforcement agency employing the students or hosting the course, a declared state of emergency, incident requiring an emergency response by law enforcement, or riot prevent students from attending class or the school from staffing instructors for the class for 40 hours of instruction a week.

(2) Select and schedule instructors who are certified by the Commission under 12 NCAC 10B .0901 through 12 NCAC 10B .0909. The selecting and scheduling of instructors is subject to special requirements as follows:

(A) No single instructor may be scheduled to instruct more than 35 percent of the total hours of the curriculum during any Detention Officer Certification Course delivery except as set forth in Part (a)(2)(B) of this Rule.

(B) Where the school submits in writing to the Director of the Division a showing of exceptional or emergency circumstances, the Director of the Division shall grant written approval for the expansion of the individual instructional limitation. Emergencies justifying an instructor to teach more than 35 percent of a Detention Officer Certification Course are situations when illness, accident, or other exceptional circumstances make it unfeasible to staff the class with other certified instructors.

(C) The appropriate number of instructors for specific topic areas shall be scheduled as required in 12 NCAC 10B .0703.

(3) Provide each instructor with a Commission-approved course **outline.** ~~[outline and inform each instructor of their duties and responsibilities as specified therein.]~~ **[in the Commissions' regulations and Detention Officer Certification Course Manual and Course Management Guide.]** ~~[Guide pursuant to 12 NCAC 10B .0601.]~~

- (4) Review each instructor's lesson plans and other instructional materials for conformance to the rules in this ~~[Chapter]~~ Subchapter and to minimize repetition and duplication of subject matter.
- (5) Arrange for the ~~[timely]~~ availability of audiovisual aids and materials, publications, facilities and equipment for ~~[training]~~ training in all topic areas as required in any ~~[Detention]~~ "Detention Officer Certification Course Management Guide" as published by the North Carolina Justice Academy and adopted by the Commission which shall be used as the basic curriculum for ~~[the]~~ Detention Officer Certification ~~[Course.]~~ Courses. Copies of this manual may be obtained by contacting the North Carolina Justice Academy, Post Office Box 99, Salemburg, North Carolina 28385-0099. The cost of this manual, CD, indexes and binder is ~~[fifty one dollars and seventy five cents (\$51.75)]~~ one hundred seven dollars and seventy cents (\$107.70) at the time this Rule was last amended. The "Detention Officer Certification Course Management Guide" published by the North Carolina Justice Academy and adopted by the Commission is hereby incorporated by reference, including subsequent amendments and editions, and shall be used by school directors in planning, implementing, and delivering basic detention officer training. The standards and requirements established by the "Detention Officer Certification Course Management Guide" shall be adhered to by the school director. The Justice Academy "Detention Officer Certification Course Management Guide" shall be available at the Justice Academy to each certified school director a copy of the guide at the time of certification at no cost to the certified school.
- ~~(6)~~ If the ~~[School]~~ school adopts ~~[rules]~~ rules, regulations, and requirements that ~~[exceeds]~~ exceed the minimum requirements of this Subchapter regarding the delivery of a Detention Officer Certification ~~[course.]~~ Course, the school shall submit the rules, regulations, and requirements to the Director as an ~~]Attachment]~~ attachment to the Pre Delivery Report of Training Course Presentation, Form F-7A. A copy of such rules shall also be given to each trainee and to the sheriff of each trainee's employing agency at the time the trainee enrolls in the course.
- ~~[(7)]~~ A copy of such rules, regulations and requirements adopted by the school pursuant to Subparagraph (a)(6) of this Rule shall be submitted to the Director as an attachment to the Pre Delivery Report of Training Course Presentation, Form F-7A. A copy of such rules shall also be given to each trainee and to the sheriff or agency head of each trainee's employing agency at the time the trainee enrolls in the course.]
- ~~[(8)]~~ (6) Not less than 30 days before commencing delivery of the course, submit to the Commission a Pre-Delivery Report of Training Course Presentation (Form F-7A) that shall contain information on the course delivery location, school director, class schedule, anticipated date of the State Comprehensive Exam, and any planned instructional hours in addition to the minimum requirements along with the following attachments:
- (A) A comprehensive course schedule showing the arrangement of topical presentations and proposed instructional assignments;

(B) A copy of any rules, regulations, and requirements for the school and, when appropriate, completed applications for certification of instructors. The Director shall review the submitted Pre-Delivery Report together with all attachments to ensure that the school is in compliance with all Commission rules; if the school's rules are found to be in violation, the Director shall notify the school of any deficiency, and approval shall be withheld until all matters are in compliance with the Commissions' rules.

~~(9)~~ (7) ~~[Shall have]~~ Have probationary instructors evaluated by an instructor certified pursuant to 12 NCAC 10B .0905 or certified as a general instructor pursuant to 12 NCAC 09B .0301 using Form F-16. If a Limited Lecturer is evaluated during the practical portion of a block of instruction, the school must designate an instructor certified to instruct the practical portion of the block of instruction to evaluate the instructor using Form F-16. These evaluations on Form F-16 shall be submitted to the Division at the conclusion of each course delivery. Based on the evaluation referenced in 12 NCAC 10B .0905(b)(1), the school shall recommend approval or denial of requests for Detention Officer Instructor Certification, Limited Lecturer Certification, or Professional Lecturer Certification. The observations shall ensure the instructor is using the Instructional Systems Design model, as taught in Criminal Justice Instructor Training set out in 12 NCAC 09B .0209, and that the delivery follows the training objectives in the commission-approved ~~lesson plan curriculum~~. For each topic area, the designee's evaluation shall be based on the course delivery observations, the instructor's use of the approved lesson plan, and the results of student evaluations of the instructor.

~~(40)~~ (8) ~~[Shall have]~~ Have all other instructors evaluated by an instructor certified pursuant to 12 NCAC 10B .0905 or certified as a general instructor pursuant to 12 NCAC 09B .0301 using Form F-16. If a Limited Lecturer is evaluated during the practical portion of a block of instruction, the school must designate an instructor certified to instruct the practical portion of the block of instruction to evaluate the instructor using Form F-16. These evaluations on Form F-16 shall be submitted to the Division at the conclusion of each course delivery. The observations shall ensure the instructor is using the Instructional Systems Design model, as taught in Criminal Justice Instructor Training set out in 12 NCAC 09B .0209, and that the delivery follows the training objectives in the commission-approved lesson plan. For each topic area, the designee's evaluation shall be based on the course delivery observations, the instructor's use of the approved lesson plan, and the results of student evaluations of the instructor. ~~[Form F-16 shall contain information on the instructor, evaluator, courses taught and observed, location and time of delivery, sponsoring agency, and evaluation of instructor performance based upon instructor ability and use of instructional strategies taught in the Criminal Justice Instructor Training.]~~

~~(44)~~ (9) Ensure that any designated certified instructor who is evaluating the instructional presentation of another, holds certification in the same instructional topic area as that being taught.

~~(42)~~ (10) Administer tests at the end of each topic area as specified in 12 NCAC 10B .0601 during the course ~~[delivery]~~ delivery.

1 ~~[(13)]~~ (11) Maintain supervision, direction, and control over the performance of all persons to whom any
2 portion of the planning, development, presentation, or administration of a course has been assigned.

3 ~~[(14)]~~ (12) Administer all course work pursuant to 12 NCAC 10B .0606.

4 ~~[(15)]~~ (13) Submit to the Commission a Post-Delivery Report of Training Course Presentation (Form 7-B),
5 which shall contain information on the sponsoring agency, course beginning and end date, and
6 deviations from the planned course delivery as specified on Form 7-A, within 10 days of receiving
7 the Commission's Report of Examination Scores.

8 (b) In addition to the requirements in Paragraph (a) of this Rule, the school shall designate a point of contact who
9 shall be available to students and Division staff at all times during course delivery by telephone or other means.
10 Available means that the point of contact may be contacted at any time of day or night by students, school personnel,
11 or division staff and shall return the call or other means of communication within 12 hours of contact if initial contact
12 is not successful. The means, and applicable numbers, shall be filed with the commission-certified training delivery
13 site pursuant to Rule .0703(c)(3) of this Subchapter and the Division prior to the beginning of a scheduled course
14 delivery.

15 ~~[(c)]~~ The Commission shall examine the Detention Officer Certification Course Management Guide and Detention
16 Officer Certification Course Training Manual developed by the North Carolina Justice Academy and vote by simple
17 majority on whether to approve them as setting the curriculum and course management requirements for [the] any
18 Detention Officer Certification Course. Subsequent substantive changes to either the Training Manual or Course
19 Management Guide must be approved by a majority vote by the Commission.]

20 ~~[(d)]~~ (c) Forms:

21 (1) Form F-7A and F-7A-T, Pre-Delivery Report of Training Course Presentation, is completed by the
22 institution or agency delivering Detention Officer and Telecommunicator Training Courses and
23 consists of information on the course delivery location, school director, class schedule, anticipated
24 date of the State Comprehensive Exam, and any planned instructional hours exceeding the minimum
25 requirements. Form F-7A is utilized for Detention Officer courses and Form F-7A-T is utilized for
26 Telecommunicator courses.

27 (2) Form F-7B and F-7B-T, Post-Delivery Report of Training Course Presentation, is completed by the
28 institution or agency delivering Detention Officer and Telecommunicator Training Courses and
29 consists of information on any substitutions of instructors as originally reported on the Pre-Delivery
30 Report, any trainees who were not recommended for the state exam due to withdrawal or
31 deficiencies, and the students who participated in and completed the course. Form F-7B is utilized
32 for Detention Officer courses and Form F-7B-T is utilized for Telecommunicator courses.

33 (3) Form F-16, Criminal Justice Instructor Evaluation, is completed by the Certified School Director
34 and In-Service Coordinator of the school and consists of a rating of instructional ability, student
35 participation, and presentation of the lesson plan by the Instructor.

1 *History Note: Authority G.S. 17E-4;*
2 *Eff. January 1, 1989;*
3 *Amended Eff. November 1, 2022, January 1, 2009; January 1, 2006; January 1, 2005; August 1,*
4 *1998; January 1, 1996; January 1, 1994; January 1, 1992;*
5 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*
6 *2018.*
7 *RRC Objection July 21, 2022 and rule returned to agency on September 27, 2022.*
8 *Amended Eff. [August 1, 2023.] September 1, 2023.*
9
10

Burgos, Alexander N

From: Bowman, Melissa <mbowman@NCDOJ.GOV>
Sent: Tuesday, September 26, 2023 7:47 AM
To: Peaslee, William W
Cc: Burgos, Alexander N
Subject: RE: [External] Rules 12 NCAC .0604-.0607

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Thank you,
Melissa



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From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Monday, September 25, 2023 4:45 PM
To: Bowman, Melissa <mbowman@NCDOJ.GOV>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] Rules 12 NCAC .0604-.0607

Good afternoon,

It is my intention to recommend approval of .0604, .0605, and .0607 as revised.

Thank you.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
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(984) 236-1939
Bill.Peaslee@oah.nc.gov

From: Bowman, Melissa <mbowman@NCDOJ.GOV>
Sent: Monday, September 18, 2023 1:22 PM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: [External] Rules 12 NCAC .0604-.0607

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Good afternoon,

It is our understanding that these rules are pending our extension request, but are also subject to the Objection Opinion received. The objection opinions have been reviewed and changes have been made in an attempt to resolve the issues raised. These changes were reviewed and approved by the Commission. Thank you for your consideration.

Melissa Bowman



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Burgos, Alexander N

From: Bowman, Melissa <mbowman@NCDOJ.GOV>
Sent: Tuesday, September 26, 2023 7:39 AM
To: Peaslee, William W
Cc: Burgos, Alexander N
Subject: RE: [External] Rules 12 NCAC .0606
Attachments: 12 NCAC 10B .0606.docx

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You are correct. Sorry that I missed that. I have updated the rule.

Thank you,
Melissa



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From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Monday, September 25, 2023 4:22 PM
To: Bowman, Melissa <mbowman@NCDOJ.GOV>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] Rules 12 NCAC .0606

In the above captioned rule,

Line 15: Rule .0604, as amended, does not have a paragraph "(f)". I think the Commission means (e).

William W. Peaslee
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(984) 236-1939
Bill.Peaslee@oah.nc.gov

From: Bowman, Melissa <mbowman@NCDOJ.GOV>
Sent: Monday, September 18, 2023 1:22 PM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: [External] Rules 12 NCAC .0604-.0607

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Good afternoon,

It is our understanding that these rules are pending our extension request, but are also subject to the Objection Opinion received. The objection opinions have been reviewed and changes have been made in an attempt to resolve the issues raised. These changes were reviewed and approved by the Commission. Thank you for your consideration.

Melissa Bowman



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12 NCAC 10B .0606 is amended with changes as published in 37:02 NCR 181-182:

12 NCAC 10B .0606 COMP WRITTEN EXAM – DETENTION OFFICER CERTIFICATION COURSE

(a) At the conclusion of a school's offering of ~~the any "Detention Detention Officer Certification Course", Course,~~ an authorized representative of the Commission shall administer a comprehensive written examination to each trainee who has satisfactorily completed all of the required course work pursuant to Rule .0605(a) of this Subchapter. A trainee shall not be administered the comprehensive written examination until such time as all required course work is successfully completed pursuant to Rule .0605(a) of this Subchapter.

(b) The examination shall be comprised of four units as specified in 12 NCAC 10B .0601(b). Each unit is designed to test the trainees' proficiency in that unit.

(c) The Commission's representative shall submit to the school director within 10 days of the administration of the examination a report of the results of the test for each trainee examined.

(d) A trainee shall successfully complete the comprehensive written examination upon achieving a minimum of 70 percent correct answers on each of the four units as prescribed in 12 NCAC 10B .0601(b).

(e) A trainee who has fully participated complied with Rule [.0604(f)] .0604(e) of this Subchapter in a scheduled delivery of ~~a certified training course~~ any Detention Officer Certification Course and has demonstrated satisfactory competence in each required motor-skill or performance area of the course curriculum but has failed to achieve the minimum score of 70 percent on any of the four units of the Commission's comprehensive written examination may request the Director to authorize a re-examination of the trainee in those units for which he or she has failed to make a passing score of 70 percent as follows:

- (1) A trainee's request for re-examination shall be made in writing on the Commission's form within 30 days after the original examination and shall be received by the Division before the expiration of the trainee's probationary certification as a detention officer.
- (2) The trainee's request for re-examination shall include the favorable recommendation of the school director who administered the trainee's ~~"Detention Detention Officer Certification Course", Course.~~
- (3) A trainee shall have only one opportunity for re-examination and shall satisfactorily complete the subsequent unit examination in its entirety within 90 days after the original examination.
- (4) A trainee shall be assigned in writing by the Division a place, time, and date for re-examination.
- (5) Should the trainee on re-examination not achieve the prescribed minimum score of 70 on the unit re-examination, the trainee shall not be given successful course completion and must enroll and successfully complete the unit(s) he or she failed upon re-examination in a subsequent course offering within 180 days of the second failure before further examination may be permitted. The trainee's failure to complete the course offering within 180 days shall require the trainee to complete an entire delivery of the Detention Officer Certification Course.

*History Note: Authority G.S. 17E-4; 17E-7;
Eff. January 1, 1989;*

1 *Amended Eff. August 1, 2011; August 1, 2002; January 1, 1996; January 1, 1994; January 1, 1992;*
2 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*
3 *2018.*
4 *Amended Eff. [~~November 1, 2022~~ November 1, 2023].*

Burgos, Alexander N

Subject: FW: [External] Rules 12 NCAC .0606

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Monday, September 25, 2023 4:22 PM
To: Bowman, Melissa M <mbowman@ncdoj.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] Rules 12 NCAC .0606

In the above captioned rule,

Line 15: Rule .0604, as amended, does not have a paragraph "(f)". I think the Commission means (e).

William W. Peaslee
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Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: [External] Rules 12 NCAC .0604-.0607

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Good afternoon,

It is our understanding that these rules are pending our extension request, but are also subject to the Objection Opinion received. The objection opinions have been reviewed and changes have been made in an attempt to resolve the issues raised. These changes were reviewed and approved by the Commission. Thank you for your consideration.

Melissa Bowman



Melissa Bowman

CJ Specialist/Investigator III

Sheriffs' Standards Division

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Burgos, Alexander N

Subject: FW: [External] RE: .0604, .0605, .0606, .0607, .0704, and .0714.

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Tuesday, September 19, 2023 5:02 PM
To: Bowman, Melissa M <mbowman@ncdoj.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] RE: .0604, .0605, .0606, .0607, .0704, and .0714.

Hi Melissa,

They remain on the agenda even though they are “no action” items.

William W. Peaslee
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Subject: [External] RE: .0604, .0605, .0606, .0607, .0704, and .0714.

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I reviewed the agenda this afternoon for the meeting on Thursday and I see .0604-.0607, .0704, and .0714 on the agenda. I anticipated that those rules would be on the agenda for October. Would you please clarify what is being recommended about these rules on Thursday? I sent the rule revisions to you so that you could take a look at them as time permits, not to rush the process along. I hope that was clear and I apologize if it was not.

Thank you,
Melissa Bowman



Melissa Bowman

CJ Specialist/Investigator III

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Sent: Tuesday, September 19, 2023 7:40 AM

To: Peaslee, William W <bill.peaslee@oah.nc.gov>

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

Subject: RE: .0604, .0605, .0606, .0607, .0704, and .0714.

Good morning,

The October meeting is fine. Thank you for asking. I will be sending our revisions to .0704 and .0714 this morning as well.

Thanks again,
Melissa Bowman



Melissa Bowman

CJ Specialist/Investigator III

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To: Peaslee, William W
Cc: Burgos, Alexander N
Subject: [External] 12 NCAC 10B .0704 and .0714
Attachments: 12 NCAC 10B .0704 final.docx; 12 NCAC 10B .0714.docx

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Good morning,

I understand that you have filed objection opinions on the above named rules and that changes are not permitted until the RRC rules on those objections. However, we would like to submit the attached rules as proposed answers to the objections. If you need additional information about the proposed changes, please let me know.

Thank you,
Melissa Bowman



Melissa Bowman

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12 NCAC 10B .0704 is ~~amended~~ **adopted** with changes as published in 37:13 NCR 933-935:

12 NCAC 10B .0704 RESPONSIBILITIES: ~~SCHOOL~~ SCHOOLS ~~DIRECTORS, AND~~ DETENTION OFFICER COURSE COURSES

(a) In planning, developing, coordinating, and delivering any commission-certified Detention Officer Certification Courses, the school shall:

(1) Formalize and schedule the course curriculum in accordance with the curriculum standards established by the rules in this Chapter.

(A) Any Detention Officer Certification Course shall be presented with a minimum of 40 hours of instruction each week during consecutive calendar weeks until course requirements are completed, with the exception of weeks in which there are regularly scheduled holidays pursuant to G.S. 103-4.

(B) Upon written request by the school delivering a class, the Director shall grant a waiver of the minimum hours requirement to that particular delivery of the class when illness, adverse weather, staffing shortages at the school or law enforcement agency employing the students or hosting the course, a declared state of emergency, incident requiring an emergency response by law enforcement, or riot prevent students from attending class or the school from staffing instructors for the class for 40 hours of instruction a week.

(2) Select and schedule instructors who are certified by the Commission under 12 NCAC 10B .0901 through 12 NCAC 10B .0909. The selecting and scheduling of instructors is subject to special requirements as follows:

(A) No single instructor may be scheduled to instruct more than 35 percent of the total hours of the curriculum during any Detention Officer Certification Course delivery except as set forth in Part (a)(2)(B) of this Rule.

(B) Where the school submits in writing to the Director of the Division a showing of exceptional or emergency circumstances, the Director of the Division shall grant written approval for the expansion of the individual instructional limitation. Emergencies justifying an instructor to teach more than 35 percent of a Detention Officer Certification Course are situations when illness, accident, or other exceptional circumstances make it unfeasible to staff the class with other certified instructors.

(C) The appropriate number of instructors for specific topic areas shall be scheduled as required in 12 NCAC 10B .0703.

(3) Provide each instructor with a Commission-approved course outline and inform each instructor of their duties and responsibilities as specified therein. [in the Commissions' regulations and Detention Officer Certification Course Manual and Course Management] Guide. [Guide pursuant to 12 NCAC 10B .0601.]

- (4) Review each instructor's lesson plans and other instructional materials for conformance to the rules in this ~~[Chapter]~~ Subchapter and to minimize repetition and duplication of subject matter.
- (5) Arrange for the ~~[timely]~~ availability of audiovisual aids and materials, publications, facilities and equipment for ~~[training]~~ training in all topic areas as required in any ~~[Detention]~~ "Detention Officer Certification Course Management Guide" as published by the North Carolina Justice Academy and adopted by the Commission which shall be used as the basic curriculum for ~~[the]~~ Detention Officer Certification ~~[Course.]~~ Courses. Copies of this manual may be obtained by contacting the North Carolina Justice Academy, Post Office Box 99, Salemburg, North Carolina 28385-0099. The cost of this manual, CD, indexes and binder is ~~[fifty one dollars and seventy five cents (\$51.75)]~~ one hundred seven dollars and seventy cents (\$107.70) at the time this Rule was last amended. The "Detention Officer Certification Course Management Guide" published by the North Carolina Justice Academy and adopted by the Commission is hereby incorporated by reference, including subsequent amendments and editions, and shall be used by school directors in planning, implementing, and delivering basic detention officer training. The standards and requirements established by the "Detention Officer Certification Course Management Guide" shall be adhered to by the school director. The Justice Academy "Detention Officer Certification Course Management Guide" shall be available at the Justice Academy to each certified school director a copy of the guide at the time of certification at no cost to the certified school.
- ~~(6)~~ If the ~~[School]~~ school adopts ~~[rules]~~ rules, regulations, and requirements that ~~[exceeds]~~ exceed the minimum requirements of this Subchapter regarding the delivery of a Detention Officer Certification ~~[course.]~~ Course, the school shall submit the rules, regulations, and requirements to the Director as an ~~]Attachment]~~ attachment to the Pre Delivery Report of Training Course Presentation, Form F-7A. A copy of such rules shall also be given to each trainee and to the sheriff of each trainee's employing agency at the time the trainee enrolls in the course.
- ~~[(7)]~~ A copy of such rules, regulations and requirements adopted by the school pursuant to Subparagraph (a)(6) of this Rule shall be submitted to the Director as an attachment to the Pre-Delivery Report of Training Course Presentation, Form F-7A. A copy of such rules shall also be given to each trainee and to the sheriff or agency head of each trainee's employing agency at the time the trainee enrolls in the course.]
- ~~[(8)]~~ (6) Not less than 30 days before commencing delivery of the course, submit to the Commission a Pre-Delivery Report of Training Course Presentation (Form F-7A) that shall contain information on the course delivery location, school director, class schedule, anticipated date of the State Comprehensive Exam, and any planned instructional hours in addition to the minimum requirements along with the following attachments:
- (A) A comprehensive course schedule showing the arrangement of topical presentations and proposed instructional assignments;

(B) A copy of any rules, regulations, and requirements for the school and, when appropriate, completed applications for certification of instructors. The Director shall review the submitted Pre-Delivery Report together with all attachments to ensure that the school is in compliance with all Commission rules; if the school's rules are found to be in violation, the Director shall notify the school of any deficiency, and approval shall be withheld until all matters are in compliance with the Commissions' rules.

~~(9)~~ ~~(7)~~ ~~[Shall have]~~ ~~Have~~ probationary instructors evaluated by an instructor certified pursuant to 12 NCAC 10B .0905 or certified as a general instructor pursuant to 12 NCAC 09B .0301 using Form F-16. If a Limited Lecturer is evaluated during the practical portion of a block of instruction, the school must designate an instructor certified to instruct the practical portion of the block of instruction to evaluate the instructor using Form F-16. These evaluations on Form F-16 shall be submitted to the Division at the conclusion of each course delivery. Based on the evaluation referenced in 12 NCAC 10B .0905(b)(1), the school shall recommend approval or denial of requests for Detention Officer Instructor Certification, Limited Lecturer Certification, or Professional Lecturer Certification. The observations shall ensure the instructor is using the Instructional Systems Design model, as taught in Criminal Justice Instructor Training set out in 12 NCAC 09B .0209, and that the delivery follows the training objectives in the commission-approved ~~lesson plan curriculum~~. For each topic area, the designee's evaluation shall be based on the course delivery observations, the instructor's use of the approved lesson plan, and the results of student evaluations of the instructor.

~~(40)~~ ~~(8)~~ ~~[Shall have]~~ ~~Have~~ all other instructors evaluated by an instructor certified pursuant to 12 NCAC 10B .0905 or certified as a general instructor pursuant to 12 NCAC 09B .0301 using Form F-16. If a Limited Lecturer is evaluated during the practical portion of a block of instruction, the school must designate an instructor certified to instruct the practical portion of the block of instruction to evaluate the instructor using Form F-16. These evaluations on Form F-16 shall be submitted to the Division at the conclusion of each course delivery. The observations shall ensure the instructor is using the Instructional Systems Design model, as taught in Criminal Justice Instructor Training set out in 12 NCAC 09B .0209, and that the delivery follows the training objectives in the commission-approved lesson plan. For each topic area, the designee's evaluation shall be based on the course delivery observations, the instructor's use of the approved lesson plan, and the results of student evaluations of the instructor. ~~[Form F-16 shall contain information on the instructor, evaluator, courses taught and observed, location and time of delivery, sponsoring agency, and evaluation of instructor performance based upon instructor ability and use of instructional strategies taught in the Criminal Justice Instructor Training.]~~

~~(44)~~ ~~(9)~~ Ensure that any designated certified instructor who is evaluating the instructional presentation of another, holds certification in the same instructional topic area as that being taught.

~~(42)~~ ~~(10)~~ Administer tests ~~at~~ the end of each topic area as specified in 12 NCAC 10B .0601 during the course ~~delivery~~ ~~delivery~~.

1 ~~[(13)]~~ (11) Maintain supervision, direction, and control over the performance of all persons to whom any
2 portion of the planning, development, presentation, or administration of a course has been assigned.

3 ~~[(14)]~~ (12) Administer all course work pursuant to 12 NCAC 10B .0606.

4 ~~[(15)]~~ (13) Submit to the Commission a Post-Delivery Report of Training Course Presentation (Form 7-B),
5 which shall contain information on the sponsoring agency, course beginning and end date, and
6 deviations from the planned course delivery as specified on Form 7-A, within 10 days of receiving
7 the Commission's Report of Examination Scores.

8 (b) In addition to the requirements in Paragraph (a) of this Rule, the school shall designate a point of contact who
9 shall be available to students and Division staff at all times during course delivery by telephone or other means.
10 Available means that the point of contact may be contacted at any time of day or night by students, school personnel,
11 or division staff and shall return the call or other means of communication within 12 hours of contact if initial contact
12 is not successful. The means, and applicable numbers, shall be filed with the commission-certified training delivery
13 site pursuant to Rule .0703(c)(3) of this Subchapter and the Division prior to the beginning of a scheduled course
14 delivery.

15 ~~[(c) The Commission shall examine the Detention Officer Certification Course Management Guide and Detention~~
16 ~~Officer Certification Course Training Manual developed by the North Carolina Justice Academy and vote by simple~~
17 ~~majority on whether to approve them as setting the curriculum and course management requirements for [the] any~~
18 ~~Detention Officer Certification Course. Subsequent substantive changes to either the Training Manual or Course~~
19 ~~Management Guide must be approved by a majority vote by the Commission.]~~

20 ~~[(d)]~~ (c) Forms:

21 (1) Form F-7A and F-7A-T, Pre-Delivery Report of Training Course Presentation, is completed by the
22 institution or agency delivering Detention Officer and Telecommunicator Training Courses and
23 consists of information on the course delivery location, school director, class schedule, anticipated
24 date of the State Comprehensive Exam, and any planned instructional hours exceeding the minimum
25 requirements. Form F-7A is utilized for Detention Officer courses and Form F-7A-T is utilized for
26 Telecommunicator courses.

27 (2) Form F-7B and F-7B-T, Post-Delivery Report of Training Course Presentation, is completed by the
28 institution or agency delivering Detention Officer and Telecommunicator Training Courses and
29 consists of information on any substitutions of instructors as originally reported on the Pre-Delivery
30 Report, any trainees who were not recommended for the state exam due to withdrawal or
31 deficiencies, and the students who participated in and completed the course. Form F-7B is utilized
32 for Detention Officer courses and Form F-7B-T is utilized for Telecommunicator courses.

33 (3) Form F-16, Criminal Justice Instructor Evaluation, is completed by the Certified School Director
34 and In-Service Coordinator of the school and consists of a rating of instructional ability, student
35 participation, and presentation of the lesson plan by the Instructor.

1 *History Note: Authority G.S. 17E-4;*
2 *Eff. January 1, 1989;*
3 *Amended Eff. November 1, 2022, January 1, 2009; January 1, 2006; January 1, 2005; August 1,*
4 *1998; January 1, 1996; January 1, 1994; January 1, 1992;*
5 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*
6 *2018.*
7 *RRC Objection July 21, 2022 and rule returned to agency on September 27, 2022.*
8 *~~Amended Eff. [August 1, 2023.]~~September 1, 2023.*
9
10

12 NCAC 10B .0714 is ~~amended adopted~~ with changes as published in 37:02 NCR 187:

12 NCAC 10B .0714 PILOT COURSE PRESENTATION/PARTICIPATION

(a) When the Commission approves the development of a new course or the development of a new version of an existing course, the Commission shall designate ~~the developer,~~ a course developer. The developer shall submit pilot curriculum for Commission approval. ~~and such designation shall be deemed by the Commission as approval for the developer to~~ The developer shall conduct ~~pilot~~ offerings of the Commission approved pilot course. The schools and instructors utilized in the pilot course offering shall be in compliance with Sections .0800 and .0900 of this Chapter.

~~A minor or major revision to existing curriculum does not constitute a new version of an existing curriculum.~~

(b) "Pilot Course" means those courses approved by the Commission to develop new training course curricula.

~~(b)~~ (c) Individuals who complete such a Commission approved pilot course offering shall be in compliance with Sections .0600, and .1300 of this Chapter. ~~not be required by other rules of this Subchapter to complete additional training for that specific certification program. Such pilot training courses shall be recognized for purposes of certification or recertification.~~

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

~~[Amended]~~ Eff. ~~[November 1, 2022]~~ November 1, 2023.

Burgos, Alexander N

From: Bowman, Melissa <mbowman@NCDOJ.GOV>
Sent: Tuesday, September 19, 2023 7:40 AM
To: Peaslee, William W
Cc: Burgos, Alexander N
Subject: [External] RE: .0604, .0605, .0606, .0607, .0704, and .0714.

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Good morning,

The October meeting is fine. Thank you for asking. I will be sending our revisions to .0704 and .0714 this morning as well.

Thanks again,
Melissa Bowman



Melissa Bowman
CJ Specialist/Investigator III
Sheriffs' Standards Division
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Fax: 919-662-4515
mbowman@ncdoj.gov
1700 Tryon Park Drive, Raleigh, NC 27610
Post Office Box 629, Raleigh, NC 27602-0629
www.ncdoj.gov

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

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Monday, September 18, 2023 4:22 PM
To: Bowman, Melissa <mbowman@NCDOJ.GOV>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: .0604, .0605, .0606, .0607, .0704, and .0714.

Good afternoon,

At its August RRC meeting, the above captioned rules were granted an extension for 70 days. The SETSC has sent revisions .0604, .0605, .0606, and .0607. which I will not have time to review prior to the September RRC meeting.

Does SETSC have a position on whether the RRC should consider the above captioned rules at the September or October meeting? If we wait until October, I will have time to review your revisions.

Bill

William W. Peaslee

Rules Review Commission Counsel / Legislative Liaison

Office of Administrative Hearings

1711 New Hope Church Road

Raleigh NC, 27609

(984) 236-1939

Bill.Peaslee@oah.nc.gov

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] Rules 12 NCAC 10B .0402, .0403, .0404, and .0503

From: Bowman, Melissa <mbowman@NCDOJ.GOV>
Sent: Monday, September 18, 2023 2:58 PM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] Rules 12 NCAC 10B .0402, .0403, .0404, and .0503

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Thank you for letting me know and for your assistance.

Melissa Bowman



Melissa Bowman
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From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Monday, September 18, 2023 2:55 PM
To: Bowman, Melissa <mbowman@NCDOJ.GOV>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] Rules 12 NCAC 10B .0402, .0403, .0404, and .0503

Thank you for your email.

I will be recommending approval of these four rules with the changes made.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939

Bill.Peaslee@oah.nc.gov

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Burgos, Alexander N

Subject: FW: [External] Rules 12 NCAC .0604-.0607

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Monday, September 18, 2023 2:33 PM
To: Bowman, Melissa M <mbowman@ncdoj.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] Rules 12 NCAC .0604-.0607

Thank you for your email.

The RRC rules do not permit a change to rules after an opinion has been issued. If the RRC objects to the above captioned rules, the revisions submitted today will be considered at the October RRC meeting.

Thank you.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
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(984) 236-1939
Bill.Peaslee@oah.nc.gov

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.

From: Bowman, Melissa <mbowman@NCDOJ.GOV>
Sent: Monday, September 18, 2023 1:22 PM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: [External] Rules 12 NCAC .0604-.0607

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Good afternoon,

It is our understanding that these rules are pending our extension request, but are also subject to the Objection Opinion received. The objection opinions have been reviewed and changes have been made in an attempt to resolve the issues raised. These changes were reviewed and approved by the Commission. Thank you for your consideration.

Melissa Bowman



Melissa Bowman

CJ Specialist/Investigator III

Sheriffs' Standards Division

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

Burgos, Alexander N

Subject: FW: [External] Withdrawal Request- 12 NCAC 10B .1302

From: Bowman, Melissa <mbowman@NCDOJ.GOV>
Sent: Monday, September 18, 2023 2:10 PM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] Withdrawal Request- 12 NCAC 10B .1302

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Yes, the Commission voted to not move forward with changes to the rule at this time.



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

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Monday, September 18, 2023 1:54 PM
To: Bowman, Melissa <mbowman@NCDOJ.GOV>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] Withdrawal Request- 12 NCAC 10B .1302

Good afternoon

Thank you for your email. The Commission's request is unclear. Is the Commission withdrawing the rule from RRC consideration?

William W. Peaslee
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(984) 236-1939
Bill.Peaslee@oah.nc.gov

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

From: Bowman, Melissa <mbowman@NCDOJ.GOV>
Sent: Monday, September 18, 2023 1:22 PM
To: Peaslee, William W
Cc: Burgos, Alexander N
Subject: [External] Rules 12 NCAC .0604-.0607
Attachments: 12 NCAC 10B .0604.docx; 12 NCAC 10B .0605.docx; 12 NCAC 10B .0606.docx; 12 NCAC 10B .0607.docx

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Good afternoon,

It is our understanding that these rules are pending our extension request, but are also subject to the Objection Opinion received. The objection opinions have been reviewed and changes have been made in an attempt to resolve the issues raised. These changes were reviewed and approved by the Commission. Thank you for your consideration.

Melissa Bowman



Melissa Bowman

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12 NCAC 10B .0604 is amended with changes as published in 37:02 NCR 180:

12 NCAC 10B .0604 TRAINEE ATTENDANCE

(a) Each trainee enrolled in ~~an any~~ accredited "~~Detention- Detention~~ Officer Certification ~~Course~~" Course shall attend all required class ~~sessions. sessions pursuant to Rules .0601 and .0603 of this Subchapter. The sheriff shall be responsible for the trainee's regular attendance at all required sessions of the detention officer training course.~~

(b) The school director may recognize valid reasons for class absences and may excuse a trainee from attendance at ~~specific~~ class sessions. Valid reasons to excuse attendance are instances of illness, accident, or emergency pursuant to .0605(a)(1) of this Subchapter. However, in no case may excused absences exceed ~~ten~~ 10 percent of the total required class hours for the course offering pursuant to Rules .0601 and .0603 of this Subchapter.

(c) If the school director grants an excused absence from a class session, he shall schedule appropriate make-up work of the excused class session with a Commission certified instructor pursuant to 12 NCAC 10B .0704 and ensure the satisfactory completion of such work class sessions during the current course presentation or in a subsequent course delivery as is permissible under 12 NCAC 10B .0605.

(d) A trainee shall not be eligible for administration of the State Comprehensive Examination pursuant to Rule .0606 of this Subchapter nor certification for successful course completion if the cumulative total of class absences, with accepted make-up ~~work~~ class sessions as set out in Paragraph (c) of this Rule, exceeds 10 percent of the total required class hours of the accredited course offering pursuant to Rules .0601 and .0603 of this Subchapter and shall be expeditedly terminated from further course participation by the school director at the time of such occurrence.

~~(e) The school director may terminate a trainee from course participation or may deny certification of successful course completion where the trainee is habitually tardy to, or regularly departs early from, class meetings sessions or field exercises.~~

~~(f)(c)~~ Where a trainee is enrolled in a program as required in 12 NCAC 10B .0601, attendance shall be 100 percent in order to receive a successful course completion.

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

Eff. January 1, 1989;

Amended Eff. January 1, 1996; 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, 2022~~ November 1, 2023.

12 NCAC 10B .0605 is amended with changes as published in 37:02 NCR 181:

12 NCAC 10B .0605 COMPLETION OF DETENTION OFFICER CERTIFICATION COURSE

(a) Each trainee shall attend and satisfactorily complete a full course during a single scheduled delivery as set forth in Rule .0601 of this Section unless a waiver has been granted as set forth in Rule .0603 or .1901 of this Subchapter. Satisfactory completion is achieved by completion of the required topics, passing the end of block tests and passing the state examination as set out in Rule .0606 of this Section. ~~The school director may develop supplemental rules as set forth in Rule .0704(a)(6) of this Subchapter, but may not add substantive courses, or change or expand the substance of the courses set forth in Rule .0601 of this Section. Section, except as provided by Rule .0603 of this Section.~~ This Rule does not prevent the instruction on local agency rules or standards; however, such instruction shall not be considered or endorsed by the Commission for purposes of certification. The Director ~~may shall~~ issue ~~prior~~ written authorization for a specified trainee's limited enrollment in a subsequent delivery of the same course where the school director provides evidence that:

- (1) The trainee attended and satisfactorily completed specified class hours and topics of the applicable "Detention Detention Officer Certification Course" Course but through extended absence occasioned by illness, accident, or emergency was absent for more than 10 percent of the total class hours of the course offering;
- (2) The trainee was granted excused absences by the school director that did not exceed ~~ten~~ 10 percent of the total class hours for the course offering and the school director could not schedule appropriate make-up work during the current course offering as specified in Rule .0604(c) of this Section; or
- (3) The trainee participated in an offering of ~~the any "Detention Detention Officer Certification Course"~~ Course but had an identified deficiency in essential knowledge or skill in no more than three of the specified topic areas incorporated in the course content as set forth in Rule .0601(b) or .0603 of this Section.

(b) An authorization of limited enrollment in a subsequent course delivery ~~may shall~~ not be granted by the Director unless in addition to the evidence required by Paragraph (a) of this Rule:

- (1) The trainee submits a written request to the Director, justifying the limited enrollment and certifying that the trainee's participation shall be accomplished pursuant to Paragraph (c) of this Rule; and
- (2) The school director of the previous school offering submits to the ~~director~~ Director a certification of the particular topics and class hours attended and satisfactorily completed by the trainee during the original enrollment.

(c) An authorization of limited enrollment in a subsequent course delivery permits the trainee to attend an offering of ~~the any "Detention Officer Certification Course"~~ commencing within 180 calendar days from the last date of trainee participation in prior course delivery, but only if the trainee's enrollment with ~~active current~~ course participation can be accomplished within the period of the trainee's probationary ~~certification:~~ certification.

- 1 (1) The trainee need attend and satisfactorily complete only those portions of the course which were
2 missed or identified by the school director as areas of trainee deficiency in the initial course
3 participation.
- 4 (2) Following authorized enrollment in the subsequent course offering, scheduled class attendance and
5 ~~active~~ participation with satisfactory achievement in the ~~course, course~~ as defined in Paragraph (a)
6 ~~of this Rule~~, the trainee shall be eligible for administration of the State Comprehensive Examination
7 by the Commission.
- 8 (3) A trainee shall be enrolled as a limited enrollee in only one subsequent course offering within the
9 180 calendar days from the last date of trainee participation in prior course delivery. A trainee who
10 fails to complete those limited portions of the course after one retest shall enroll in an entire delivery
11 of the Detention Officer Certification Course.
- 12 (d) A trainee who is deficient in four or more subject-matter or topical areas at the conclusion of the course delivery
13 shall complete ~~a subsequent program in its entirety, an entire delivery of the Detention Officer Certification Course~~
14

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

16 *Eff. January 1, 1989;*

17 *Amended Eff. February 1, 2014; August 1, 1998; January 1, 1996; January 1, 1993; January 1,*
18 *1992; January 1, 1991;*

19 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*
20 *2018.*

21 *Amended Eff. ~~November 1, 2022~~ November 1, 2023.*
22

12 NCAC 10B .0606 is amended with changes as published in 37:02 NCR 181-182:

12 NCAC 10B .0606 COMP WRITTEN EXAM – DETENTION OFFICER CERTIFICATION COURSE

(a) At the conclusion of a school's offering of ~~the any "Detention~~ Detention Officer Certification ~~Course", Course,~~ an authorized representative of the Commission shall administer a comprehensive written examination to each trainee who has satisfactorily completed all of the required course work pursuant to Rule .0605(a) of this Subchapter. A trainee shall not be administered the comprehensive written examination until such time as all required course work is successfully completed pursuant to Rule .0605(a) of this Subchapter.

(b) The examination shall be comprised of four units as specified in 12 NCAC 10B .0601(b). Each unit is designed to test the trainees' proficiency in that unit.

(c) The Commission's representative shall submit to the school director within 10 days of the administration of the examination a report of the results of the test for each trainee examined.

(d) A trainee shall successfully complete the comprehensive written examination upon achieving a minimum of 70 percent correct answers on each of the four units as prescribed in 12 NCAC 10B .0601(b).

(e) A trainee who has fully participated complied with Rule .0604(f) of this Subchapter in a scheduled delivery of a ~~certified training course~~ any Detention Officer Certification Course and has demonstrated satisfactory competence in each required motor-skill or performance area of the course curriculum but has failed to achieve the minimum score of 70 percent on any of the four units of the Commission's comprehensive written examination may request the Director to authorize a re-examination of the trainee in those units for which he or she has failed to make a passing score of 70 percent as follows:

- (1) A trainee's request for re-examination shall be made in writing on the Commission's form within 30 days after the original examination and shall be received by the Division before the expiration of the trainee's probationary certification as a detention officer.
- (2) The trainee's request for re-examination shall include the favorable recommendation of the school director who administered the trainee's ~~"Detention~~ Detention Officer Certification ~~Course", Course.~~
- (3) A trainee shall have only one opportunity for re-examination and shall satisfactorily complete the subsequent unit examination in its entirety within 90 days after the original examination.
- (4) A trainee shall be assigned in writing by the Division a place, time, and date for re-examination.
- (5) Should the trainee on re-examination not achieve the prescribed minimum score of 70 on the unit re-examination, the trainee shall not be given successful course completion and must enroll and successfully complete the unit(s) he or she failed upon re-examination in a subsequent course offering within 180 days of the second failure before further examination may be permitted. The trainee's failure to complete the course offering within 180 days shall require the trainee to complete an entire delivery of the Detention Officer Certification Course.

*History Note: Authority G.S. 17E-4; 17E-7;
Eff. January 1, 1989;*

1 *Amended Eff. August 1, 2011; August 1, 2002; January 1, 1996; January 1, 1994; January 1, 1992;*
2 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*
3 *2018.*
4 *Amended Eff. [~~November 1, 2022~~]November 1, 2023.*

1 12 NCAC 10B .0607 is amended with changes as published in 37:02 NCR 182:

2
3 **12 NCAC 10B .0607 SATISFACTION OF MINIMUM TRAINING REQUIREMENTS**

4 In order to satisfy the minimum training requirements for certification as a detention officer, a trainee shall:

- 5 (1) achieve a score of 70 percent correct answers on the Commission-administered comprehensive
6 written examination; and
7 (2) demonstrate successful completion of an accredited offering of the ~~any "Detention~~ Detention Officer
8 Certification ~~Course"~~ Course as shown by the certification of the school ~~director; and~~ director.
9 ~~(3) obtain the recommendation of the trainee's school director that the trainee possesses at least the~~
10 ~~minimum degree of general attributes, knowledge, and skill to function as an inexperienced~~
11 ~~detention officer as evidenced by successful course completion pursuant to rule .0606. [An~~
12 ~~inexperienced detention officer is an officer that has no prior experience performing the duties of a~~
13 ~~detention officer as defined in 12 NCAC 10B .0103(13).]~~

14
15 *History Note: Authority G.S. 17E-4; 17E-7;*

16 *Eff. January 1, 1989; June 21, 2022*

17 *Amended Eff. January 1, 1996; January 1, 1992;*

18 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*
19 *2018.*

20 *Amended Eff. [November 1, 2022]November 1, 2023.*

Burgos, Alexander N

Subject: FW: [External] Rules 12 NCAC 10B .0402, .0403, .0404, and .0503
Attachments: 12 NCAC 10B .0402.docx; 12 NCAC 10B .0403.docx; 12 NCAC 10B .0404 final.docx; 12 NCAC 10B .0503 final.docx

From: Bowman, Melissa <mbowman@NCDOJ.GOV>
Sent: Monday, September 18, 2023 12:31 PM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: [External] Rules 12 NCAC 10B .0402, .0403, .0404, and .0503

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Good afternoon,

It is our understanding that it is your present intention to recommend approval of rules 12 NCAC 10B .0402 and .0403. You also expressed your intention to recommend approval of .0503 after addressing a minor ambiguity. Your last email regarding .0404 had some concerns about lines 12 and 14 of .0404 with the use of the phrase "in good standing". Please see the attached regarding this rule. The Commission has approved changes to those lines. The "in good standing" in line 12 is not necessary to the rule. The use of the phrase in line 14 was clarified to note that this section is relevant to those officers separated "without a pending disciplinary action". Our office is hopeful these changes satisfactorily address your concerns.

Our office has also addressed the minor ambiguity that you referenced about .0503.

If you have any additional questions or concerns, please feel free to contact me.

Thank you,
Melissa Bowman



Melissa Bowman
CJ Specialist/Investigator III
Sheriffs' Standards Division
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Post Office Box 629, Raleigh, NC 27602-0629
www.ncdoj.gov

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1 12 NCAC 10B .0402 is amended with changes as published in 37:02 NCR 176 as follows:

2
3 **12 NCAC 10B .0402 PROBATIONARY CERTIFICATION**

4 All justice officers, except those transferred or reinstated pursuant to Rule .0406 of this Section shall serve a
5 probationary certification period of one year; provided that the one year probationary period has not been extended
6 for cause pursuant to 12 NCAC 10B ~~.0303(e); .0503(a); or .0602(a)~~ .0602(a) or .1303(a). For certification as a deputy
7 sheriff the probationary period begins on the date the officer took the Oath of ~~Office.~~ Office after completion of Basic
8 Law Enforcement Training. ~~Training as described in 12 NCAC 10B .0502 and 12 NCAC 09B .0205.~~ For certification
9 as a detention officer or telecommunicator, the probationary period begins on the date the person was appointed.
10 ~~[appointed after the completion of the Detention Officer Certification Course or Telecommunicator Certification~~
11 ~~Course, as applicable.]~~

12
13 *History Note: Authority G.S. 17E-4; 17E-7;*

14 *Eff. January 1, 1989;*

15 *Amended Eff. ; January 1, 1996; January 1, 1994; January 1, 1991;*

16 *Temporary Amendment Eff. March 1, 1998;*

17 *Amended Eff. August 1, 1998;*

18 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*
19 *2018.*

20 *Amended Eff. [~~July 1, 2023~~] July 1, 2024.*

12 NCAC 10B .0403 is amended with changes as published in 37:02 NCR 176 as follows:

12 NCAC 10B .0403 PROBATIONARY CERTIFICATION REQUIREMENT

(a) For certification as a ~~justice officer~~, deputy sheriff, the applicant must successfully complete Basic Law Enforcement ~~Training~~ Training as described in 12 NCAC 10B .0502 and 12 NCAC 09B .0205, and a Report of Appointment ~~(Form F-4T)~~ (Form F-4) must be submitted to the Division. ~~Report of Appointment forms must be submitted to the Division by the sheriff's office no later than 10 days after the deputy sheriff has taken the Oath of Office, or the detention officer or telecommunicator has been appointed. The Division shall forward the justice officer's certification to the appointing agency.~~

(b) For certification as a detention officer, ~~[the applicant must successfully complete the Detention Officer Certification Course, and]~~ a Report of Appointment ~~(Form F-4T)~~ (Form F-4) must be submitted to the Division.

(c) For certification as a telecommunication officer, ~~[the applicant must successfully complete the Telecommunicator Certification Course, and]~~ a Report of Appointment (Form F-4T) must be submitted to the Division.

(d) Report of Appointment forms must be submitted to the Division by the employing agency no later than 10 days after the deputy sheriff has taken the Oath of Office, or the detention officer or the telecommunicator has been appointed.

(e) The Division shall forward the justice officer's certification to the appointing agency.

~~(b)(f)~~ No deputy sheriff or detention officer probationary certification shall be issued by the Division prior to the applicant meeting the conditions set forth in this Paragraph. As an additional requirement for probationary certification, the applicant shall meet the following requirements:

- (1) If the applicant for probationary certification is authorized to carry a firearm pursuant to the provisions of 12 NCAC 10B .2104, the employing agency shall submit evidence of satisfactory completion of the employing agency's in-service firearms training and requalification program pursuant to 12 NCAC 10B .2000 and .2100; or
- (2) If the applicant for probationary certification is not authorized to carry a firearm pursuant to the provisions of 12 NCAC 10B .2104, the employing agency shall notify the Division, in writing, that the applicant is not authorized to carry a firearm.

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

Eff. January 1, 1989;

Amended Eff. February 1, 1998, January 1, 1996; January 1, 1994; January 1, 1991;

Temporary Amendment Eff. March 1, 1998;

Amended Eff. August 1, 1998;

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

Amended Eff. [July 1, 2023] July 1, 2024.

1 12 NCAC 10B .0404 is amended with changes as published in 37:02 NCR 176 as follows:

2
3 **12 NCAC 10B .0404 GENERAL CERTIFICATION**

4 (a) The Commission shall grant an officer general certification if evidence is received by the Division that the officer
5 has:

- 6 (1) complied with all of the requirements of 12 NCAC 10B .0300; and
7 (2) successfully completed the required ~~training within the probationary period.~~ period pursuant to Rule
8 .0402 of this [Chapter,] Subchapter; and
9 (3) detention officers and telecommunicators have completed the required training within the
10 probationary period.

11 (b) General certification is continuous from the date of issuance if:

- 12 (1) The certified officer remains continuously employed or appointed as an officer in good standing
13 with an agency and the certification has not been terminated for cause; or
14 (2) The certified officer, having separated in good standing without a pending disciplinary action from
15 an agency, is reemployed or reappointed as a justice officer within one year, year from the date of
16 separation and the certification has not been terminated for cause.

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

19 *Eff. January 1, 1989;*

20 *Amended Eff. January 1, 1993;*

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

23 *Amended Eff. [July 1, 2023] July, 1, 2024.*
24

1 12 NCAC 10B .0503 is amended with changes as published in 37:02 NCR 176-177 as follows:

2
3 **12 NCAC 10B .0503 TIME REQ/COMPLETION/BASIC LAW ENFORCEMENT TRAINING COURSE**

4 (a) Each deputy sheriff ~~shall have completed with passing scores the accredited basic training course as prescribed in~~
5 ~~12 NCAC 09B .0205 prior to obtaining probationary certification. holding temporary or probationary certification~~
6 ~~shall complete a Commission-certified basic training course pursuant to 12 NCAC 09B .0405, within one year from~~
7 ~~the date of his or her Oath of Office.~~ Any deputy sheriff who does not comply with this Rule or other training
8 provisions of this Chapter shall not exercise the powers of a deputy sheriff, including the power of arrest. ~~If, however,~~
9 ~~an officer has enrolled in a Commission-certified basic law enforcement training program that concludes later than~~
10 ~~the end of the officer's probationary period, the Commission may extend the probationary period for a period not to~~
11 ~~exceed 12 months. In determining whether to grant an extension, the Commission shall consider the circumstances~~
12 ~~that created the need for the extension.~~

13 (b) ~~Any person~~ Any applicant for certification who has completed a Commission-certified basic law enforcement
14 training program, but has not been duly appointed and certified in a sworn law enforcement position within one year
15 of completion of the course, shall complete a subsequent Commission-certified basic ~~recruit law enforcement~~ training
16 program and pass the State Comprehensive Examination pursuant to 12 NCAC 09B .0406 within the 12 month
17 probationary period. The Director shall waive this requirement to complete a subsequent Commission-certified basic
18 law enforcement training program and pass the State Comprehensive Examination and accept a ~~course~~ basic law
19 enforcement training program and pass the State Comprehensive Examination that was completed outside of the one
20 year time period as set forth in ~~Paragraph (a) of~~ this Rule unless he or she determines that a delay in applying for
21 certification was due to negligence on the part of the applicant or employing agency. The extension of the one year
22 period shall not exceed 30 days from the expiration date of ~~a the~~ commission-certified basic law enforcement training
23 program. program completed by the applicant.

24
25 *History Note: Authority G.S. 17E-4; 17E-7;*

26 *Eff. January 1, 1989;*

27 *Amended Eff. January 1, 2006; January 1, 1996; January 1, 1994; January 1, 1991;*

28 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*
29 *2018;*

30 *Amended Eff. [July 1, 2023;] July 1, 2024; June 1, 2019.*

Burgos, Alexander N

Subject: FW: [External] Rules covered under the extension

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Tuesday, September 12, 2023 1:26 PM
To: Bowman, Melissa M <mbowman@ncdoj.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] Rules covered under the extension

Thank you.

If you or your counsel has any questions feel free to contact me.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
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1711 New Hope Church Road
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(984) 236-1939
Bill.Peaslee@oah.nc.gov

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Burgos, Alexander N

Subject: FW: [External] Rules covered under the extension

From: Bowman, Melissa <mbowman@NCDOJ.GOV>
Sent: Tuesday, September 12, 2023 1:10 PM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: [External] Rules covered under the extension

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Good afternoon,

I wanted to provide you with a brief update after meeting with our legal counsel this morning. We will be reviewing the 11 rules covered under the extension request with the Sheriffs' Commission at the scheduled meeting on Friday September 15, 2023. I will update you again on Monday September 18, 2023. I thank you for your patience and understanding.

Best wishes,
Melissa Bowman



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Burgos, Alexander N

From: Peaslee, William W
Sent: Tuesday, September 5, 2023 11:43 AM
To: Bowman, Melissa M
Cc: Burgos, Alexander N
Subject: 12 NCAC 10B .0404

Good morning Melissa,

Lines 12 and 14 in the above captioned rule use the phrase "in good standing". This term is undefined, unclear, and ambiguous.

William W. Peaslee
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Burgos, Alexander N

From: Peaslee, William W
Sent: Tuesday, September 5, 2023 11:46 AM
To: Bowman, Melissa M
Cc: Burgos, Alexander N
Subject: 12 NCAC 10B .0402 and .0404

Good morning Melissa,

I am presently inclined to recommend approval of the above captioned rules as changed.

If you have any questions, please feel free to contact me.

William W. Peaslee
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Burgos, Alexander N

From: Peaslee, William W
Sent: Friday, September 1, 2023 12:13 PM
To: Bowman, Melissa M
Cc: Burgos, Alexander N
Subject: Rule 12 NCAC 10B .0503

Good morning,

In line 22 of the above captioned rule, the commission refers to “the expiration date of a commission certified basic law enforcement training program” (emphasis added). This is unclear. Does the commission mean “any” training program, or a commission-certified basic law enforcement training program completed by the applicant?

Other than this minor ambiguity, I am presently inclined to recommend approval to the RRC.

That having been stated, I do not think that Lines 17-21 are well written nor do I believe they meet the objections of the commission in that, as written, “the Director shall waive “ the requirement “unless he or she determines that the delay in certification was due to negligence...” Accordingly, if the delay was an intentional act by the applicant, the Director would have to waive the requirement. I believe what the commission desires is for the school director to waive the requirement for good cause (which would need to be defined). Maybe I’m wrong. That is not what this rule does. That having been said, it is my present intention to not recommend objection based upon these lines.

The other rules remain under review.

As always if you have any questions please feel free to contact me.

William W. Peaslee
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Burgos, Alexander N

From: Peaslee, William W
Sent: Friday, September 1, 2023 3:23 PM
To: Bowman, Melissa M
Cc: Burgos, Alexander N
Subject: 12 NCAC 10B .1302
Attachments: NC Sheriffs' Training Comm 12 NCAC 10B .1302 Staff Opinion 090123.doc

Good afternoon,

Attached please find a draft of a recommendation for objection concerning the above captioned rule. As the Commission's intentions in the rule are unclear, I wanted you to consider the issues raised therein.

Please respond no later than COB September 18, 2023.

Thank you.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
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(984) 236-1939
Bill.Peaslee@oah.nc.gov

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RRC STAFF OPINION

PLEASE NOTE: THIS COMMUNICATION IS EITHER 1) ONLY THE RECOMMENDATION OF AN RRC STAFF ATTORNEY AS TO ACTION THAT THE ATTORNEY BELIEVES THE COMMISSION SHOULD TAKE ON THE CITED RULE AT ITS NEXT MEETING, OR 2) AN OPINION OF THAT ATTORNEY AS TO SOME MATTER CONCERNING THAT RULE. THE AGENCY AND MEMBERS OF THE PUBLIC ARE INVITED TO SUBMIT THEIR OWN COMMENTS AND RECOMMENDATIONS (ACCORDING TO RRC RULES) TO THE COMMISSION.

AGENCY: North Carolina Sheriffs' Education and Training Standards Commission

RULE CITATION: 12 NCAC 10B .1302

RECOMMENDATION DATE:

RECOMMENDED ACTION:

- ☐ Approve, but note staff's comment
- ☒ Object, based on:
 - ☒ Lack of statutory authority
 - ☒ Unclear or ambiguous
 - ☐ Unnecessary
 - ☒ Failure to comply with the APA
 - ☐ Extend the period of review

COMMENT:

In Subparagraph (d), The North Carolina Sheriffs' Education and Training Standards Commission (hereinafter "Commission") arguably incorporates by reference pursuant to G.S. 150B-21.6 the "Telecommunicator Certification Training Manual" developed by the North Carolina Justice Academy (hereinafter "Manual"); the employment of the phrase "shall be used" renders the incorporation unclear.

In Subparagraph (e), the Commission arguably incorporates the Guide by reference pursuant to G.S. 150B-21.6; however, the employment of the phrase "shall be used" renders the incorporation unclear.

In Subparagraph (e), the Commission requires the training school to adhere to the "standards and requirements established by the 'Telecommunicator Certification Course Guide'" developed by the North Carolina Justice Academy (hereinafter "Guide").

By a plain reading of this language, the Commission is adopting "standards and requirements" that fall squarely within the definition of a "rule" pursuant to G.S. 150B-2(8a).

The North Carolina Justice Academy (hereinafter "Academy") is a Division of the North Carolina Department of Justice. The Academy has not "adopted" the Guide or the Manual as a rule in accordance with the Administrative Procedures Act.

William W. Peaslee
Commission Counsel

Pursuant to G.S. 150B-21.6, an agency can adopt by reference language without repeating the language in two circumstances; when the language is another rule adopted by the agency or “all or part of a code, standard, or regulation adopted by another agency, the federal government, or a generally recognized organization or association.”

In this Rule, the Commission is attempting to adopt the language of an agency which has not adopted that language pursuant to the APA.

Accordingly, staff recommends objection to the Rule pursuant to G.S. 150B-21.9(a)(1), (2) and (4) as the Commission does not have authority to adopt this rule pursuant to G.S.150B-21.6 and its adoption would not comply with G.S.150B-21.6.

§ 150B-2. Definitions.

As used in this Chapter, the following definitions apply:

- (1) Administrative law judge. - A person appointed under G.S. 7A-752, 7A-753, or 7A-757.
- (1a) Adopt. - To take final action to create, amend, or repeal a rule.
- (1b) Agency. - An agency or an officer in the executive branch of the government of this State. The term includes the Council of State, the Governor's Office, a board, a commission, a department, a division, a council, and any other unit of government in the executive branch. A local unit of government is not an agency.
- (1c) Codifier of Rules. - The person appointed by the Chief Administrative Law Judge of the Office of Administrative Hearings pursuant to G.S. 7A-760(b).
- (1d) Commission. - The Rules Review Commission.
- (2) Contested case. - An administrative proceeding pursuant to this Chapter to resolve a dispute between an agency and another person that involves the person's rights, duties, or privileges, including licensing or the levy of a monetary penalty. The term does not include rulemaking, declaratory rulings, or the award or denial of a scholarship, a grant, or a loan.
- (2a) Repealed by Session Laws 1991, c. 418, s. 3.
- (2b) Hearing officer. - A person or group of persons designated by an agency that is subject to Article 3A of this Chapter to preside in a contested case hearing conducted under that Article.
- (3) License. - Any certificate, permit, or other evidence, by whatever name called, of a right or privilege to engage in any activity, except licenses issued under Chapter 20 and Subchapter I of Chapter 105 of the General Statutes, occupational licenses, and certifications of electronic poll books, ballot duplication systems, or voting systems under G.S. 163-165.7.
- (4) Licensing. - Any administrative action issuing, failing to issue, suspending, or revoking a license or occupational license. The term does not include controversies over whether an examination was fair or whether the applicant passed the examination.
- (4a) Occupational license. - Any certificate, permit, or other evidence, by whatever name called, of a right or privilege to engage in a profession, occupation, or field of endeavor that is issued by an occupational licensing agency.
- (4b) Occupational licensing agency. - Any board, commission, committee, or other agency of the State that is established for the primary purpose of regulating the entry of persons into, or the conduct of persons within

a particular profession, occupation, or field of endeavor, and that is authorized to issue and revoke licenses. The term does not include State agencies or departments that may as only a part of their regular function issue permits or licenses.

- (5) Party. - Any person or agency named or admitted as a party or properly seeking as of right to be admitted as a party and includes the agency as appropriate.
- (5a) Person. - Any natural person, partnership, corporation, body politic, and any unincorporated association, organization, or society that may sue or be sued under a common name.
- (6) Person aggrieved. - Any person or group of persons of common interest directly or indirectly affected substantially in his, her, or its person, property, or employment by an administrative decision.
- (7) Recodified as subdivision (5a) of this section by Session Laws 2021-88, s. 16(a), effective July 22, 2021.
- (7a) Policy. - Any nonbinding interpretive statement within the delegated authority of an agency that merely defines, interprets, or explains the meaning of a statute or rule. The term includes any document issued by an agency that is intended and used purely to assist a person to comply with the law, such as a guidance document.
- (8) Residence. - Domicile or principal place of business.
- (8a) Rule. - Any agency regulation, standard, or statement of general applicability that implements or interprets an enactment of the General Assembly or Congress or a regulation adopted by a federal agency or that describes the procedure or practice requirements of an agency. The term includes the establishment of a fee and the amendment or repeal of a prior rule. The term does not include the following:
 - a. Statements concerning only the internal management of an agency or group of agencies within the same principal office or department enumerated in G.S. 143A-11 or 143B-6, including policies and procedures manuals, if the statement does not directly or substantially affect the procedural or substantive rights or duties of a person not employed by the agency or group of agencies.
 - b. Budgets and budget policies and procedures issued by the Director of the Budget, by the head of a department, as defined by G.S. 143A-2 or G.S. 143B-3, or by an occupational licensing board, as defined by G.S. 93B-1.
 - c. Nonbinding interpretative statements within the delegated authority of an agency that merely define, interpret, or explain the meaning of a statute or rule.

- d. A form, the contents or substantive requirements of which are prescribed by rule or statute.
 - e. Statements of agency policy made in the context of another proceeding, including:
 - 1. Declaratory rulings under G.S. 150B-4.
 - 2. Orders establishing or fixing rates or tariffs.
 - f. Requirements, communicated to the public by the use of signs or symbols, concerning the use of public roads, bridges, ferries, buildings, or facilities.
 - g. Statements that set forth criteria or guidelines to be used by the staff of an agency in performing audits, investigations, or inspections; in settling financial disputes or negotiating financial arrangements; or in the defense, prosecution, or settlement of cases.
 - h. Scientific, architectural, or engineering standards, forms, or procedures, including design criteria and construction standards used to construct or maintain highways, bridges, or ferries.
 - i. Job classification standards, job qualifications, and salaries established for positions under the jurisdiction of the State Human Resources Commission.
 - j. Establishment of the interest rate that applies to tax assessments under G.S. 105-241.21.
 - k. The State Medical Facilities Plan, if the Plan has been prepared with public notice and hearing as provided in G.S. 131E-176(25), reviewed by the Commission for compliance with G.S. 131E-176(25), and approved by the Governor.
 - l. Standards adopted by the State Chief Information Officer and applied to information technology as defined in G.S. 143B-1320.
- (8b) Repealed by Session Laws 2011-398, s. 61.2, effective July 25, 2011.
- (8c) Substantial evidence. - Relevant evidence a reasonable mind might accept as adequate to support a conclusion.
- (9) Repealed by Session Laws 1991, c. 418, s. 3. (1973, c. 1331, s. 1; 1975, 2nd Sess., c. 983, ss. 61, 62; 1977, c. 915, s. 5; 1983, c. 641, s. 1; 1985, c. 746, s. 1; 1985 (Reg. Sess., 1986), c. 1022, s. 1(2)-1(5); 1987, c. 878, ss. 1, 2, 21; 1987 (Reg. Sess., 1988), c. 1111, s. 17; 1991, c. 418, s. 3; c. 477, ss. 3.1, 3.2, 9; 1995, c. 390, s. 29; 1996, 2nd Ex. Sess., c. 18, s. 7.10(g); 1997-456, s. 27; 2003-229, s. 12; 2007-491, s. 44(1)b; 2011-13, s. 2; 2011-398, ss. 15, 61.2; 2013-188, s. 7; 2013-382, s. 9.1(c); 2013-413, s. 1; 2015-2, s. 2.2(c); 2015-241, ss. 7A.3, 30.16(a); 2017-6, s. 3; 2018-13, s. 3.8(b); 2018-146, ss. 3.1(a), (b), 4.5(b); 2021-88, s. 16(a), (b).)

§ 150B-21.6. Incorporating material in a rule by reference.

An agency may incorporate the following material by reference in a rule without repeating the text of the referenced material:

- (1) Another rule or part of a rule adopted by the agency.
- (2) All or part of a code, standard, or regulation adopted by another agency, the federal government, or a generally recognized organization or association.
- (3) Repealed by Session Laws 1997-34, s. 5.

In incorporating material by reference, the agency must designate in the rule whether or not the incorporation includes subsequent amendments and editions of the referenced material. The agency can change this designation only by a subsequent rule-making proceeding. The agency must have copies of the incorporated material available for inspection and must specify in the rule both where copies of the material can be obtained and the cost on the date the rule is adopted of a copy of the material.

A statement in a rule that a rule incorporates material by reference in accordance with former G.S. 150B-14(b) is a statement that the rule does not include subsequent amendments and editions of the referenced material. A statement in a rule that a rule incorporates material by reference in accordance with former G.S. 150B-14(c) is a statement that the rule includes subsequent amendments and editions of the referenced material. (1973, c. 1331, s. 1; 1975, 2nd Sess., c. 983, s. 64; 1981 (Reg. Sess., 1982), c. 1359, s. 5; 1983, c. 641, s. 3; c. 768, s. 19; 1985, c. 746, s. 1; 1987, c. 285, s. 13; 1991, c. 418, s. 1; 1997-34, s. 5.)

§ 150B-21.9. Standards and timetable for review by Commission.

(a) Standards. - The Commission must determine whether a rule meets all of the following criteria:

- (1) It is within the authority delegated to the agency by the General Assembly.
- (2) It is clear and unambiguous.
- (3) It is reasonably necessary to implement or interpret an enactment of the General Assembly, or of Congress, or a regulation of a federal agency. The Commission shall consider the cumulative effect of all rules adopted by the agency related to the specific purpose for which the rule is proposed.
- (4) It was adopted in accordance with Part 2 of this Article.

The Commission shall not consider questions relating to the quality or efficacy of the rule but shall restrict its review to determination of the standards set forth in this subsection.

The Commission may ask the Office of State Budget and Management to determine if a rule has a substantial economic impact and is therefore required to have a fiscal note. The Commission must ask the Office of State Budget and Management to make this determination if a fiscal note was not prepared for a rule and the Commission receives a written request for a determination of whether the rule has a substantial economic impact.

(a1) Entry of a rule in the North Carolina Administrative Code after review by the Commission creates a rebuttable presumption that the rule was adopted in accordance with Part 2 of this Article.

(b) Timetable. - The Commission must review a permanent rule submitted to it on or before the twentieth of a month by the last day of the next month. The Commission must review a rule submitted to it after the twentieth of a month by the last day of the second subsequent month. The Commission must review a temporary rule in accordance with the timetable and procedure set forth in G.S. 150B-21.1. (1991, c. 418, s. 1; 1995, c. 507, s. 27.8(f); 2000-140, s. 93.1(a); 2001-424, s. 12.2(b); 2003-229, s. 9.)

Burgos, Alexander N

From: Peaslee, William W
Sent: Friday, September 1, 2023 5:04 PM
To: Bowman, Melissa M
Cc: Burgos, Alexander N
Subject: 12 NCAC 10B .0607
Attachments: NC Sheriffs' Training Comm 12 NCAC 10B .0607 Staff Opinion 090123.pdf

Good afternoon

Attached please find a staff opinion on the above captioned rule.

As always if you have any questions please feel free to contact me.

I hope you have a safe Labor Day Weekend.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

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Burgos, Alexander N

From: Peaslee, William W
Sent: Friday, August 18, 2023 10:19 AM
To: Bowman, Melissa M
Cc: Burgos, Alexander N
Subject: SETCS Extension Letter
Attachments: 08.2023 SETCS Extension Letter.pdf

Good morning,

Attached please find a letter memorializing the Rule Review Commission's action granting the SETCS' request for an extension.

As always if you have any questions please feel free to contact me.

Have a great weekend.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

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

From: Peaslee, William W
Sent: Wednesday, August 16, 2023 3:57 PM
To: Bowman, Melissa M
Cc: Squires, Richard N; Burgos, Alexander N
Subject: 12 NCAC 10B .1302

Good afternoon,

To memorialize our telephone conversation of this afternoon, after hearing of my intention to recommend objection to the above captioned rule, the Commission wishes to re-new its request for an extension on this rule.

If your recollection is otherwise, please let me know.

Thank you.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

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Burgos, Alexander N

Subject: FW: [External] RE: SETSC
Attachments: 12 NCAC 10B .0503 (2).docx

Alexander Burgos

Paralegal
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1940
Alexander.burgos@oah.nc.gov

From: Bowman, Melissa <mbowman@NCDOJ.GOV>
Sent: Wednesday, August 16, 2023 12:12 PM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: [External] RE: SETSC

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.

Good afternoon,

I apologize for the delay. I agree that these are the latest versions with the exception of .0503. The latest version you have was an attempt to rectify some of your concerns, but does not represent the Commission's intention. The version prior to that contains their intentions with this rule and is attached here. If you need further clarification, please let me know.

Thank you,
Melissa Bowman



Melissa Bowman
CJ Specialist/Investigator III
Sheriffs' Standards Division
Phone: 919-779-8213
Fax: 919-662-4515
mbowman@ncdoj.gov
1700 Tryon Park Drive, Raleigh, NC 27610
Post Office Box 629, Raleigh, NC 27602-0629
www.ncdoj.gov

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

1 12 NCAC 10B .0503 is amended with changes as published in 37:02 NCR 176-177 as follows:

2
3 **12 NCAC 10B .0503 TIME REQ/COMPLETION/BASIC LAW ENFORCEMENT TRAINING COURSE**

4 (a) Each deputy sheriff ~~shall have completed with passing scores the accredited basic training course as prescribed in~~
5 ~~12 NCAC 09B .0205 prior to obtaining probationary certification. holding temporary or probationary certification~~
6 ~~shall complete a Commission-certified basic training course pursuant to 12 NCAC 09B .0405, within one year from~~
7 ~~the date of his or her Oath of Office.~~ Any deputy sheriff who does not comply with this Rule or other training
8 provisions of this Chapter shall not exercise the powers of a deputy sheriff, including the power of arrest. ~~If, however,~~
9 ~~an officer has enrolled in a Commission-certified basic law enforcement training program that concludes later than~~
10 ~~the end of the officer's probationary period, the Commission may extend the probationary period for a period not to~~
11 ~~exceed 12 months. In determining whether to grant an extension, the Commission shall consider the circumstances~~
12 ~~that created the need for the extension.~~

13 (b) ~~Any person~~ Any applicant for certification who has completed a Commission-certified basic law enforcement
14 training program, but has not been duly appointed and certified in a sworn law enforcement position within one year
15 of completion of the course, shall complete a subsequent Commission-certified basic ~~recruit law enforcement~~ training
16 program and pass the State Comprehensive Examination pursuant to 12 NCAC 09B .0406 within the 12 month
17 probationary period. The Director shall waive this requirement to complete a subsequent Commission-certified basic
18 law enforcement training program and pass the State Comprehensive Examination and accept a ~~course~~ basic law
19 enforcement training program and pass the State Comprehensive Examination that was completed outside of the one
20 year time period as set forth in ~~Paragraph (a) of~~ this Rule unless he or she determines that a delay in applying for
21 certification was due to negligence on the part of the applicant or employing agency. The extension of the one year
22 period shall not exceed 30 days from the expiration date of a commission-certified basic law enforcement training
23 program.

24
25 *History Note: Authority G.S. 17E-4; 17E-7;*

26 *Eff. January 1, 1989;*

27 *Amended Eff. January 1, 2006; January 1, 1996; January 1, 1994; January 1, 1991;*

28 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*
29 *2018;*

30 *Amended Eff. [July 1, 2023;] July 1, 2024; June 1, 2019.*

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Wednesday, August 16, 2023 10:53 AM
To: Bowman, Melissa <mbowman@NCDOJ.GOV>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: SETSC

Good morning Melissa,

Attached are what I believe are the latest adopted versions of each rule on the RRC agenda tomorrow. Please confirm that these are the latest versions.

Thank you.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

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Burgos, Alexander N

From: Peaslee, William W
Sent: Tuesday, August 15, 2023 10:06 AM
To: Bowman, Melissa M
Cc: Squires, Richard N; Burgos, Alexander N
Subject: 12 NCAC 10B .0604
Attachments: Sheriffs' Education Staff opinion12 NCAC 10B .0604 082023.pdf

Good morning,

Attached please find the staff opinion for the above captioned rule.

As always, if you have any questions or concerns please do not hesitate to contact me.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

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Burgos, Alexander N

Subject: FW: [External] RE: 12 NCAC 10B .0714 Staff opinion

From: Peaslee, William W <bill.peaslee@oah.nc.gov>

Sent: Tuesday, August 15, 2023 9:26 AM

To: Bowman, Melissa M <mbowman@ncdoj.gov>

Cc: Squires, Richard N <rsquires@ncdoj.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>

Subject: RE: [External] RE: 12 NCAC 10B .0714 Staff opinion

Yes. To be clear, only the RCC itself can grant an extension.

William W. Peaslee

Rules Review Commission Counsel / Legislative Liaison

Office of Administrative Hearings

1711 New Hope Church Road

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(984) 236-1939

Bill.Peaslee@oah.nc.gov

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

From: Bowman, Melissa <mbowman@NCDOJ.GOV>
Sent: Tuesday, August 15, 2023 8:16 AM
To: Peaslee, William W
Cc: Squires, Richard N; Burgos, Alexander N
Subject: [External] RE: 12 NCAC 10B .0714 Staff opinion

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.

On Friday, August 11, 2023, a request for an extension was made pertaining to this rule. Is that extension request still under consideration by the Commission?

Thank you,
Melissa Bowman



Melissa Bowman
CJ Specialist/Investigator III
Sheriffs' Standards Division
Phone: 919-779-8213
Fax: 919-662-4515
mbowman@ncdoj.gov
1700 Tryon Park Drive, Raleigh, NC 27610
Post Office Box 629, Raleigh, NC 27602-0629
www.ncdoj.gov

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

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Monday, August 14, 2023 4:51 PM
To: Bowman, Melissa <mbowman@NCDOJ.GOV>
Cc: Squires, Richard <RSQUIRES@ncdoj.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: 12 NCAC 10B .0714 Staff opinion

Good afternoon,

Attached please find the staff opinion for the above captioned rule.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

Burgos, Alexander N

Subject: FW: [External] RE: Rules 12 NCAC 10B .0702, .0705, .0803, .0901, .0903, .0906, .0910, and .1302

From: Peaslee, William W <bill.peaslee@oah.nc.gov>

Sent: Monday, August 14, 2023 3:11 PM

To: Bowman, Melissa M <mbowman@ncdoj.gov>

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

Subject: RE: [External] RE: Rules 12 NCAC 10B .0702, .0705, .0803, .0901, .0903, .0906, .0910, and .1302

Thank you for your email.

Requests for extension, and the retraction thereof is in the purview of the RRC. I will make them aware of your request.

William W. Peaslee

Rules Review Commission Counsel / Legislative Liaison

Office of Administrative Hearings

1711 New Hope Church Road

Raleigh NC, 27609

(984) 236-1939

Bill.Peaslee@oah.nc.gov

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Burgos, Alexander N

From: Bowman, Melissa <mbowman@NCDOJ.GOV>
Sent: Monday, August 14, 2023 2:54 PM
To: Peaslee, William W
Cc: Burgos, Alexander N
Subject: [External] RE: Rules 12 NCAC 10B .0702, .0705, .0803, .0901, .0903, .0906, .0910, and .1302

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Good afternoon,

Thank you for the information. The Commission's request for an extension for rules .0705, .0903, .0906, and .1302 was predicated on not knowing if an additional response would be required and a deadline looming. If it is your present intention to recommend those rules, in addition to .0702, .0803, and .0901, and .0910, an extension would not be necessary. Please advise if we can retract our request for an extension for .0705, .0903, .0906, and .1302. I thank you in advance for any further guidance you may provide.

Melissa Bowman



Melissa Bowman

CJ Specialist/Investigator III
Sheriffs' Standards Division
Phone: 919-779-8213
Fax: 919-662-4515
mbowman@ncdoj.gov
1700 Tryon Park Drive, Raleigh, NC 27610
Post Office Box 629, Raleigh, NC 27602-0629
www.ncdoj.gov

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

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Monday, August 14, 2023 1:58 PM
To: Bowman, Melissa <mbowman@NCDOJ.GOV>
Cc: Squires, Richard <RSQUIRES@ncdoj.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: Rules 12 NCAC 10B .0702, .0705, .0803, .0901, .0903, .0906, .0910, and .1302

Good afternoon,

It is my present intention to recommend RRC approval of the above captioned rules, of which .0705, .0903, .0906, and .1302 are also under consideration for an extension pursuant to the Commission's request.

The balance of the rules under consideration will have a recommendation of objection forthcoming and all are under consideration for an extension pursuant to the Commission's request.

As always if you have any questions or concerns, please do not hesitate to contact me.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

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Burgos, Alexander N

From: Peaslee, William W
Sent: Monday, August 14, 2023 1:58 PM
To: Bowman, Melissa M
Cc: Squires, Richard N; Burgos, Alexander N
Subject: Rules 12 NCAC 10B .0702, .0705, .0803, .0901, .0903, .0906, .0910, and .1302

Good afternoon,

It is my present intention to recommend RRC approval of the above captioned rules, of which .0705, .0903, .0906, and .1302 are also under consideration for an extension pursuant to the Commission's request.

The balance of the rules under consideration will have a recommendation of objection forthcoming and all are under consideration for an extension pursuant to the Commission's request.

As always if you have any questions or concerns, please do not hesitate to contact me.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

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: 12 NCAC 10B .0403, .0404, .0607

From: Bowman, Melissa <mbowman@NCDOJ.GOV>

Sent: Monday, August 14, 2023 8:34 AM

To: Peaslee, William W <bill.peaslee@oah.nc.gov>

Cc: Squires, Richard N <rsquires@ncdoj.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>

Subject: [External] RE: 12 NCAC 10B .0403, .0404, .0607

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Good morning,

We have submitted an updated request for an extension for the remaining rules (.0402, .0403, .0404, .0503, .0604, .0605, .0606, .0607, .0704, .0705, .0714, .0903, .0906, and .1302). We are aware of the stated concerns about .0402-.0404 and .0503 and are working on a response, but we have not received follow up on the remaining rules. Will that be forthcoming? Please advise.

Thank you,
Melissa Bowman



Melissa Bowman

CJ Specialist/Investigator III

Sheriffs' Standards Division

Phone: 919-779-8213

Fax: 919-662-4515

mbowman@ncdoj.gov

1700 Tryon Park Drive, Raleigh, NC 27610

Post Office Box 629, Raleigh, NC 27602-0629

www.ncdoj.gov

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Burgos, Alexander N

From: Peaslee, William W
Sent: Saturday, August 12, 2023 12:55 PM
To: Bowman, Melissa M
Cc: Squires, Richard N; Burgos, Alexander N
Subject: 12 NCAC 10B .0403, .0404, .0607

Good afternoon,

In a previous email I indicated that it was my intention to recommend approval of the above captioned rules.

Upon reflection and further consideration, I may be recommending objection to the above captioned rules pending your response to my last inquiry about Rule .0503 regarding authority and G.S. 17E-7(b).

It is my present intention the recommend approval of .0702, .0803, .0901, and .910 as previously stated.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

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Burgos, Alexander N

Subject: FW: [External] RE: 12 NCAC 10B .0402

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Friday, August 11, 2023 4:46 PM
To: Bowman, Melissa M <mbowman@ncdoj.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] RE: 12 NCAC 10B .0402

Thank you for your email.

I believe rule .0402 has the same issue regarding authority as rule .0503 regarding G.S.17E-7(b). It is my present intention to recommend objection.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

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.

From: Bowman, Melissa <mbowman@NCDOJ.GOV>
Sent: Friday, August 11, 2023 3:53 PM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Subject: [External] RE: 12 NCAC 10B .0402

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You sent me the below email yesterday and I responded. This rule was in the list that you previously stated it was your present intention to approve. Please confirm the status of this rule. I did not copy Alexander Burgos as you did not on the original email.

Thank you,
Melissa Bowman



Melissa Bowman

CJ Specialist/Investigator III

Sheriffs' Standards Division

Phone: 919-779-8213

Fax: 919-662-4515

mbowman@ncdoj.gov

1700 Tryon Park Drive, Raleigh, NC 27610

Post Office Box 629, Raleigh, NC 27602-0629

www.ncdoj.gov

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

Burgos, Alexander N

From: Bowman, Melissa <mbowman@NCDOJ.GOV>
Sent: Friday, August 11, 2023 3:01 PM
To: Peaslee, William W
Cc: Squires, Richard N; Burgos, Alexander N
Subject: [External] RE: 12 NCAC 10B .0503

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I am confirming that your notes of our telephone conversation were accurately captured in the document you provided.

Melissa Bowman



Melissa Bowman
CJ Specialist/Investigator III
Sheriffs' Standards Division
Phone: 919-779-8213
Fax: 919-662-4515
mbowman@ncdoj.gov
1700 Tryon Park Drive, Raleigh, NC 27610
Post Office Box 629, Raleigh, NC 27602-0629
www.ncdoj.gov

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

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Friday, August 11, 2023 10:56 AM
To: Bowman, Melissa <mbowman@NCDOJ.GOV>
Cc: Squires, Richard <RSQUIRES@ncdoj.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: 12 NCAC 10B .0503

Good morning:

Attached are my notes from our telephone conversation regarding the above captioned rule. If you believe that the notes contain an error or are incomplete, please let me know so that your concerns, editions, or corrections can be documented.

I will review the revised rule shortly.

Thank you.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609

(984) 236-1939
Bill.Peaslee@oah.nc.gov

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

From: Bowman, Melissa <mbowman@NCDOJ.GOV>
Sent: Friday, August 11, 2023 2:46 PM
To: Peaslee, William W
Cc: Squires, Richard N; Burgos, Alexander N
Subject: RE: [External] Response for Request for Changes (12 NCAC 10B .0604-.0606, .0704, .0705, .0903, .0906, .1302)
Attachments: 12 NCAC 10B .0705 School Director.docx; 12 NCAC 10B .0903 Instructors DOCC.docx; 12 NCAC 10B .0906 Prof Lecturer Cert.docx

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.

I apologize for this error. Please see the attached version with the requested changes.



Melissa Bowman
CJ Specialist/Investigator III
Sheriffs' Standards Division
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Fax: 919-662-4515
mbowman@ncdoj.gov
1700 Tryon Park Drive, Raleigh, NC 27610
Post Office Box 629, Raleigh, NC 27602-0629
www.ncdoj.gov

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

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Friday, August 11, 2023 2:43 PM
To: Bowman, Melissa <mbowman@NCDOJ.GOV>
Cc: Squires, Richard <RSQUIRES@ncdoj.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: FW: [External] Response for Request for Changes (12 NCAC 10B .0604-.0606, .0704, .0705, .0903, .0906, .1302)

12 NCAC 10B .0903 and .0906 do not appear to be formatted correctly. In other words, I think you filed the wrong version.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

From: Rules, Oah <oah.rules@oah.nc.gov>
Sent: Friday, August 11, 2023 7:40 AM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: FW: [External] Response for Request for Changes (12 NCAC 10B .0604-.0606, .0704, .0705, .0903, .0906, .1302)

From: Bowman, Melissa <mbowman@NCDOJ.GOV>
Sent: Thursday, August 10, 2023 4:10 PM
To: Rules, Oah <oah.rules@oah.nc.gov>
Subject: [External] Response for Request for Changes (12 NCAC 10B .0604-.0606, .0704, .0705, .0903, .0906, .1302)

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.

Good afternoon,

Please see the attached Response to Request for Changes and the accompanying rules.

Thank you,
Melissa Bowman



Melissa Bowman
CJ Specialist/Investigator III
Sheriffs' Standards Division
Phone: 919-779-8213
Fax: 919-662-4515
mbowman@ncdoj.gov
1700 Tryon Park Drive, Raleigh, NC 27610
Post Office Box 629, Raleigh, NC 27602-0629
www.ncdoj.gov

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1 12 NCAC 10B .0503 is amended with changes as published in 37:02 NCR 176-177 as follows:

2
3 **12 NCAC 10B .0503 TIME REQ/COMPLETION/BASIC LAW ENFORCEMENT TRAINING COURSE**

4 (a) Each deputy sheriff ~~shall have completed with passing scores the accredited basic training course as prescribed in~~
5 ~~12 NCAC 09B .0205 prior to obtaining probationary certification. holding temporary or probationary certification~~
6 ~~shall complete a Commission-certified basic training course pursuant to 12 NCAC 09B .0405, within one year from~~
7 ~~the date of his or her Oath of Office.~~ Any deputy sheriff who does not comply with this Rule or other training
8 provisions of this Chapter shall not exercise the powers of a deputy sheriff, including the power of arrest. ~~If, however,~~
9 ~~an officer has enrolled in a Commission-certified basic law enforcement training program that concludes later than~~
10 ~~the end of the officer's probationary period, the Commission may extend the probationary period for a period not to~~
11 ~~exceed 12 months. In determining whether to grant an extension, the Commission shall consider the circumstances~~
12 ~~that created the need for the extension.~~

13 (b) ~~Any person~~ Any applicant for certification who has completed a Commission-certified basic law enforcement
14 training program, but has not been duly appointed and certified in a sworn law enforcement position within one year
15 of completion of the course, shall complete a subsequent Commission-certified basic ~~recruit law enforcement~~ training
16 program and pass the State Comprehensive Examination pursuant to 12 NCAC 09B .0406 within the 12 month
17 probationary period. The Director shall waive this requirement to complete a subsequent Commission-certified basic
18 law enforcement training program and pass the State Comprehensive Examination and accept a ~~course~~ basic law
19 enforcement training program and pass the State Comprehensive Examination that was completed outside of the one
20 year time period as set forth in ~~Paragraph (a) of~~ this Rule unless he or she determines that a delay in applying for
21 certification was due to negligence on the part of the applicant or employing agency. The extension of the one year
22 period shall not exceed 30 days from the expiration date of a commission-certified basic law enforcement training
23 program.

24
25 *History Note: Authority G.S. 17E-4; 17E-7;*

26 *Eff. January 1, 1989;*

27 *Amended Eff. January 1, 2006; January 1, 1996; January 1, 1994; January 1, 1991;*

28 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*
29 *2018;*

30 *Amended Eff. [July 1, 2023;] July 1, 2024; June 1, 2019.*

1 12 NCAC 10B .0705 is amended with changes as published in 37:02 NCR 185-186:

2
3 **12NCAC 10B .0705 QUALIFICATIONS TO ACT AS SCHOOL DIRECTORS**

4 Any person designated to act as, or who performs the duties of, a school director in the delivery or presentation of a
5 any commission-accredited Detention Officer Certification Course ~~detention officer training course~~ shall ~~meet~~
6 ~~maintain~~ the following ~~qualifications criteria~~ ~~prior to commencing duties as such. Any designated school director will~~
7 ~~to~~ continuously ~~maintain these qualifications during service~~ ~~serve~~ as a school director.

- 8 (1) Submit a written designation as school director executed by the executive officer of the institution
9 or agency currently accredited, or which may be seeking accreditation, by the Commission to make
10 presentation of accredited training programs;
- 11 (2) Be certified as a criminal justice instructor by the North Carolina Criminal Justice Education and
12 Training Standards Commission;
- 13 (3) Attend or must have attended the most current offering of the school director's orientation as
14 developed and presented by the Commission staff;
- 15 (4) Attend or must have attended the most current offering of the school director's conference as
16 presented by the Commission staff and staff of the North Carolina Criminal Justice Education and
17 Training Standards Commission and Standards Division;
- 18 (5) Not have had any type of certification issued from this Commission, from the North Carolina
19 Criminal Justice Education and Training Standards Commission, or from any commission, agency,
20 or board established to certify pursuant to said commission, agency or boards' standards, which was
21 revoked, suspended or denied ~~for cause~~ and such period of sanction is still in effect at the time of
22 designation;
- 23 (6) Perform the duties and responsibilities of a school director as specifically required in Rule .0704;
- 24 (7) Maintain an updated copy of the "Detention Officer Certification Training Manual" assigned to each
25 accredited school; and
- 26 (8) Ensure compliance with the Commission's accreditation requirements as set forth in 12 NCAC 10B
27 .0703 and .0802.

28
29 *History Note: Authority G.S. 17E-4;*

30 *Eff. January 1, 1989;*

31 *Amended Eff. August 1, 2002; August 1, 1998; January 1, 1996; January 1, 1992; January 1, 1991;*

32 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*
33 *2018.*

34 *Amended Eff. [November 1, 2022]/November 1, 2023.*
35

12 NCAC 10B .0903 is amended with changes as published in 37:02 NCR 188:

12 NCAC 10B .0903 CERT: INSTRUCTORS FOR DETENTION OFFICER CERTIFICATION COURSE

(a) Any person participating in a any commission-certified Detention Officer Certification Course as an instructor, teacher, professor, lecturer, or other participant making presentations to the class shall first be certified by the Commission as an ~~instructor~~ instructor pursuant to rules .0905, .0907, and .0909 of this Subchapter.

(b) The Commission shall certify Detention Officer Certification Course instructors under the following categories:

(1) Detention Officer Instructor Certification;

(2) Professional Lecturer Certification; or

(3) Limited Lecturer Certification as outlined in Rules .0904, .0906 and .0908 of this Section.

(c) In addition to all other requirements of this Section, all instructors certified by the Commission to teach in a any commission-certified Detention Officer Certification Course shall ~~remain knowledgeable and~~ attend and complete any instructor training updates related to curriculum content and delivery as may be offered by the Commission approved curriculum developer and within the time period as specified by the Commission approved curriculum developer.

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

Eff. January 1, 1989;

Amended Eff. January 1, 2005; August 1, 1998; January 1, 1996; January 1, 1990;

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

Amended Eff. ~~November 1, 2022~~ November 1, 2023.

12 NCAC 10B .0906 is amended with changes as published in 37:02 NCR 188:

12 NCAC 10B .0906 PROFESSIONAL LECTURER CERTIFICATION

(a) The Commission may issue Professional Lecturer Certification to a licensed attorney-at-law or a person with a law degree to teach "Legal Aspects of Jail Management and Administration" or other approved Detention Officer Certification Course legal block in the any Detention Officer Certification Course **if they apply and meet the criteria set out in Rule .0907 of this Subchapter.**

(b) To be eligible for such certification an applicant shall present documentary evidence demonstrating that the applicant has:

- (1) graduated from an accredited law school;
- (2) obtained the endorsement of a commission recognized school director who shall:
 - (A) recommend the applicant for certification as a professional lecturer; and
 - (B) describe the applicant's expected participation, topical areas, duties and responsibilities.

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

Eff. January 1, 1989;

Amended Eff. January 1, 1996; January 1, 1994; 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, 2022~~ November 1, 2023.

Burgos, Alexander N

From: Peaslee, William W
Sent: Friday, August 11, 2023 2:43 PM
To: Bowman, Melissa M
Cc: Squires, Richard N; Burgos, Alexander N
Subject: FW: [External] Response for Request for Changes (12 NCAC 10B .0604-.0606, .0704, .0705, .0903, .0906, .1302)
Attachments: Request for Changes (SS Response).docx; 12 NCAC 10B .0604 Trainee Attendance.docx; 12 NCAC 10B .0605 Completion of DOCC.docx; 12 NCAC 10B .0606 Exam DOCC.docx; 12 NCAC 10B .0704.docx; 12 NCAC 10B .0705 School Director.docx; 12 NCAC 10B .0903 Instructors DOCC.docx; 12 NCAC 10B .0906 Prof Lecturer Cert.docx; 12 NCAC 10B .1302.docx

12 NCAC 10B .0903 and .0906 do not appear to be formatted correctly. In other words, I think you filed the wrong version.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

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.

From: Rules, Oah <oah.rules@oah.nc.gov>
Sent: Friday, August 11, 2023 7:40 AM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: FW: [External] Response for Request for Changes (12 NCAC 10B .0604-.0606, .0704, .0705, .0903, .0906, .1302)

From: Bowman, Melissa <mbowman@NCDOJ.GOV>
Sent: Thursday, August 10, 2023 4:10 PM
To: Rules, Oah <oah.rules@oah.nc.gov>
Subject: [External] Response for Request for Changes (12 NCAC 10B .0604-.0606, .0704, .0705, .0903, .0906, .1302)

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.

Good afternoon,

Please see the attached Response to Request for Changes and the accompanying rules.

Thank you,
Melissa Bowman



Melissa Bowman

CJ Specialist/Investigator III

Sheriffs' Standards Division

Phone: 919-779-8213

Fax: 919-662-4515

mbowman@ncdoj.gov

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Burgos, Alexander N

Subject: FW: [External] Response for Request for Changes (12 NCAC 10B .0604-.0606, .0704, .0705, .0903, .0906, .1302)
Attachments: Request for Changes (SS Response).docx; 12 NCAC 10B .0604 Trainee Attendance.docx; 12 NCAC 10B .0605 Completion of DOCC.docx; 12 NCAC 10B .0606 Exam DOCC.docx; 12 NCAC 10B .0704.docx; 12 NCAC 10B .0705 School Director.docx; 12 NCAC 10B .0903 Instructors DOCC.docx; 12 NCAC 10B .0906 Prof Lecturer Cert.docx; 12 NCAC 10B .1302.docx

From: Peaslee, William W <bill.peaslee@oah.nc.gov>

Sent: Friday, August 11, 2023 2:36 PM

To: Bowman, Melissa M <mbowman@ncdoj.gov>

Cc: Squires, Richard N <rsquires@ncdoj.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>

Subject: FW: [External] Response for Request for Changes (12 NCAC 10B .0604-.0606, .0704, .0705, .0903, .0906, .1302)

Rule 12 NCAC 10B .0705 does not appear to be formatted correctly.

William W. Peaslee

Rules Review Commission Counsel / Legislative Liaison

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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.

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.

Questions contained herein suggest that the rule as written is unclear or there is some ambiguity. If this document includes questions and you do not understand the question, please contact the reviewing attorney to discuss. Failure to respond may result in a staff opinion recommending objection.

Staff may suggest the agency "consider" an idea or language in this document. This is in no way a formal request that the agency adopt the idea or language but rather is offered merely for the agency's consideration which the agency may find preferable and clarifying.

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: "aAssociation"
 - 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:
www.ncoah.com/rules/examples.html

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

William W. Peaslee
Commission Counsel
Date submitted to agency: July 31, 2023

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

AGENCY: Sheriffs' Education and Training Standards Commission

RULE CITATION: 12 NCAC 10B .0604

DEADLINE FOR RECEIPT: August 11, 2023

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

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

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

Generally, to the Rule: Explain the commission's authority to empower a school director, who is not an employee of the commission or government, to waive a commission rule.

Response: G.S. 17E-4(a)(7) as updated by SB 611 gives the Commission authority to regulate school directors. This rule establishes guidelines for school directors to follow in excusing absences. This is not the waiver of the rule establishing required attendance because the rule also requires make-up work for the missed classes.

Line 4-5: The first sentence of paragraph (a) is either redundant or ambiguous. Either the "required class sessions" are listed and required in another rule, in which case the sentence unnecessary, or they are not listed anywhere, in which case the requirement is ambiguous. Or does the commission intend that a trainee must attend all class sessions of required classes, in which case what is a "required class"?

Response: For these four questions about "required class sessions," a citation to the required classes as established in 12 NCAC 10B .0601 and .0603 has been added.

Lines 4-6: Adding "required" into this paragraph appears to limit the applicability of attendance to certain "sessions". Was the commissions intention? If so, identify the sessions.

Response: See previous response.

Line 5: Which classes are "required"? What rule lists "required" classes? Are there classes which are not required?

Response: See previous response.

Line 5-6: What is a "required session"?

Response: See previous response.

William W. Peaslee
Commission Counsel

Date submitted to agency: July 31, 2023

Line 6: Explain the commission's authority to hold the sheriff responsible? How would the commission hold a sheriff, an elected official, responsible?

Response: This sentence is not necessary and has been deleted.

Line 7: Define "valid reasons".

Response: A definition has been added to the rule. Valid reasons to excuse attendance are instances of illness, accident, or emergency pursuant to .0605(a)(1) of this Subchapter.

Lines 7-9: An agency may not adopt a rule to allow the agency, or its employees, to waive or modify a requirement unless a rule establishes specific guideline for the agency to follow in determining whether to waive a rule.

Response: This rule and .0605(a)(1) establish the guidelines. Do you recommend an additional citation?

Line 7: What criteria will the School Director apply? What is a "valid reason" See G.S. 150B-19(6). It is unclear whether the excused absence must be based on a "valid reason."

Response: See previous response.

Line 8: Define "specific class sessions". Which sessions?

Response: The word specific was removed as it is not necessary.

Line 8: Either define "required class" or add a citation to another rule. "...pursuant to rule 12 NCAC 10 B ____."

Response: A citation has been added.

Line 8 and 15: Which class hours are "required"? What rule lists the required hours? Are there hours which are not required?

Response: A citation has been added. All hours are required.

Line 10: Define "appropriate make-up work".

Response: The language has been clarified.

Line 13: "State Comprehensive Examination" does not appear to be a define term. Either define it or make a citation to a rule which set forth the requirements of the examination. See G.S. 150B-19(6).

Response: A citation to Rule .0606 was added.

Line 14: How does makeup work become “accepted”? Add reference to Subchapter (c) if that is what makeup work the Commission intends.

Response: The missed class material is required to be provided by a Commission certified instructor pursuant to 12 NCAC 10B .0704 and references have been added.

Line 15: “Expediently” is ambiguous. Define or delete it.

Response: Expediently is deleted.

Line 16: Explain the commission’s authority to regulate an employee, to wit: the school director.

Response: Session Bill 611 updating G.S. 17E-(4)(a) provides this authority.

Lines 17-19: What is the commission’s authority to empower a third party, to wit: the school, or a third party’s employee, to wit: the school director, to waive a commission rule.

Response: Session Bill 611 updating G.S. 17E-(4)(a) provides the authority to direct the school and school director. The school director has guidelines in Rule 12 NCAC 10B .0704 and the Course Management Guide to direct them on terminating participation.

Lines 17-19: The standard by which a school director can terminate participation is unclear and ambiguous. If the Commission intends for the school director to have discretion by using “may”, what criteria will be used?

Response: As outlined in this rule and the Course Management Guide, there are specific guidelines for the school director to follow.

Lines 17-19: It is unclear whether this paragraph is limiting the circumstance upon which the school can terminate its contractual relationship with the trainee.

Response: As outlined in this rule and the Course Management Guide, there are specific guidelines for the school director to follow.

Lines 17-19: If a trainee is wrongfully “terminated” by the school director pursuant to the rule, to whom does the trainee appeal? The school director is an employee of a third party.

Response: Pursuant to 12 NCAC 10B .0107 trainees can appeal to the Commission. The Trainees have other avenues through the delivery site or their employing agency through established grievance processes.

Line 18: What does “habitually tardy” mean? Define or delete.

Response: Being late and leaving early are considered a deficiency in the Commission approved Course Management Guide which outlines such deficiencies. A trainee is allowed to accumulate up to three (3) topical area deficiencies during a course delivery.

William W. Peaslee
Commission Counsel

Date submitted to agency: July 31, 2023

Line 18: What does “regularly departs” mean? Define or delete.

Response: See previous response.

Line 18: Is a “class meeting” different than a class session? If so, how? The Commission should try to be consistent with its terms when the terms mean the same thing.

Response: Yes, they are the same. Meeting is updated to session.

Line 18: By what rule is the trainee required to attend “field exercises”?

Response: Rule .0601(e)(3) outlines the field exercises in the Practical Application Unit. Do you recommend adding a reference to this rule?

Line 20-21: Is Paragraph (f) notwithstanding Paragraphs (b) and (c)? Paragraphs (b), (c), and (f) appear to conflict.

Response: Attendance is required at 100% and Paragraphs (b) and (c) which address missing classes provide guidance on how to comply with (f).

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

William W. Peaslee
Commission Counsel

Date submitted to agency: July 31, 2023

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

AGENCY: Sheriffs' Education and Training Standards Commission

RULE CITATION: 12 NCAC 10B .0605

DEADLINE FOR RECEIPT: August 11, 2023

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

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

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

Line 7: Explain the authority of the commission to delegate its rulemaking authority to the school director.

Response: Session Bill 611 updating G.S. 17E-(4)(a) provides this authority.

Line 7-9: Explain the commission's authority to allow an employee of the school to dictate the managerial prerogative of the school's owners.

Response: Session Bill 611 updating G.S. 17E-(4)(a) provides this authority.

Lines 10-11: This line does not appear to be reasonably necessary pursuant to G.S. 150B-21.9(a)(3).

Response: This line is reasonably necessary as it allows community colleges to deliver agency policies to trainees to prepare them for the workforce.

Line 11: The commission employs the use of the word "may" which gives the Director discretion. What criteria will the Director consider in exercising this discretion? If the commission means "shall", use "shall".

Response: "May" has been updated to "shall".

Line 11: "Prior" to what?

Response: Prior is not necessary and has been deleted.

Lines 14-24: If the school director fails to "provide evidence", what is the trainees recourse or due process?

Response: Pursuant to 12 NCAC 10B .0107 trainees can appeal to the Commission. The Trainees have other avenues through the delivery site or their employing agency through established grievance processes.

Line 25: Change “may” to “shall”.

Response: “May” has been updated to “shall”.

Line 27: What justification is acceptable? Or is any written explanation acceptable?

Response: Any written explanation is acceptable.

Line 29: “director” should be “Director”.

Response: This update has been made.

Line 34: What does the commission mean by “active course participation”?

Response: Their current course participation. “Active” was replaced by “current”.

Line 35: The colon should be a period, or these needs to be additional language added to connect Paragraph (c) to (1)-(3).

Response: A period was added.

Page 2, Line 5: Define or delete “active”.

Response: “Active” has been deleted.

Page 2, Line 5: What constitutes “satisfactory achievement”?

Response: A reference to Paragraph (a) of this rule which defines “satisfactory achievement” has been added.

Page 2, Line 12: What does the commission mean by “subsequent program”? Is that the same as “an entire delivery of the Detention Officer Certification Course” from lines 9-10. Use consistent terms where applicable.

Response: Yes, it means “an entire delivery of the Detention Officer Certification Course” and this has been updated.

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

William W. Peaslee
Commission Counsel
Date submitted to agency: July 31, 2023

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

AGENCY: Sheriffs' Education and Training Standards Commission

RULE CITATION: 12 NCAC 10B .0606

DEADLINE FOR RECEIPT: August 11, 2023

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

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

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

Line 6: Define of delete "satisfactorily".

Response: A citation to 12 NCAC 10B .0605(a) was added to define.

Line 7: Define of delete "successfully".

Response: A citation to 12 NCAC 10B .0605(a) was added to define.

Lines 8-9: The second sentence is unnecessary.

Response: The sentence has been deleted.

Line 10: What if there is not a "school director"?

Response: 12 NCAC 10B .0703(b) requires the school to have a school director.

Line 14: Define "fully participated in a scheduled delivery"?

Response: This means no deficiencies.

Line 15: It is unclear how a trainee is required to demonstrate "satisfactory competence".

Response: The next line explains that satisfactory competence is achieving a minimum score of 70.

Line 15: What is "satisfactory competence"?

Response: See previous answer.

William W. Peaslee
Commission Counsel
Date submitted to agency: July 31, 2023

Line 28: What is “successful course completion”?

Response: This is deleted because it is not reasonably necessary.

Lines 27-30: This subparagraph is unclear. What happens if the trainee does not take the course again within 180 days?

Response: A sentence was added that explains that failure to complete the course within 180 days requires the trainee to complete an entire delivery of the Detention Officer Certification Course.

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

William W. Peaslee
Commission Counsel

Date submitted to agency: July 31, 2023

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

AGENCY: Sheriffs' Education and Training Standards Commission

RULE CITATION: 12 NCAC 10B .0704

DEADLINE FOR RECEIPT: August 11, 2023

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

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

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

Line 1: This is not an amendment. This is an adoption.

Response: This has been corrected.

Line 33: What rule requires the school to submit an outline? If one does not exist, this portion needs to be deleted. If one does exist, add a citation. i.e., ...pursuant to 12 NCAC 10B ____."

Response: A citation for rule .0601 has been added.

Line 24, Page 4: Delete "Amended".

Response: This has been corrected.

Line 37: "Chapter" should be "Subchapter" should it not? If not, cite the rules not in 10B.

Response: This has been corrected.

Page 2, Line 1: Define or delete "timely".

Response: It has been deleted.

Page 2, Lines 2-3, Lines 8-13: Explain the agencies' authority to require adherence to and incorporate by reference another agencies' document unless that agency has adopted the document pursuant to the Administrative Procedures Act. Please identify the rule where the North Carolina Justice Academy adopted the Detention Officer Certification Course Management Guide.

Response: The NC Justice Academy did not adopt the guide or manual. The Justice Academy developed the guide and manual and the Commission adopted both. Language has been added to rule to show such.

Page 2, Line 11: Explain the Commission's authority to manage employees of the school providing the instruction.

Response: SB 611 updating G.S. 17E-(4)(a) provides this authority.

Page 2, Line 13: Explain the Commission's authority to manage employees of the school providing the instruction.

Response: SB 611 updating G.S. 17E-(4)(a) provides this authority.

Page 2, Line 13: Explain the Commission's authority over the Justice Academy.

Response: It was not the intention of the Commission to direct the Justice Academy and the language has been updated that the Guide is available at the Justice Academy at no cost to the certified school.

Page 2, Line 19 and 27: Identify the rule which sets forth the requirements of the Pre-Delivery Report of Training Course Presentation (Form F-7A). See G.S. 150B-2(8a)d.

Response: An addition to the Forms rule 12 NCAC 10B .2201 to include this form is in process. In the interim, the requirements of the Form F-7A has been added for clarification.

Page 3, Lines 11 and 22: What is the "Instructional Systems Design model"? It is not set forth in the 12 NCAC 09B .0209.

Response: Instructional Systems Design is an international model with applications in education, military training, and private enterprise. The training is taught in General Instructor Training as required by 12 NCAC 09B .0209(c). Are you requesting an additional reference?

Page 3, Lines 11-13: Consider re-writing these lines.

Response: Further clarification is needed on why these lines should be re-written.

Page 3, Line 13: Identify the rule which requires lesson plans to be approved by the Commission.

Response: Lesson plan was updated to curriculum.

Page 3, Lines 26-29: Consider making these lines a separate subparagraph. As written, it is unclear whether the lines are applicable to just subparagraph (9) or not.

Response: These lines are deleted and added to the end of the rule. An addition to the Forms rule 12 NCAC 10B .2201 to include this form is in process. In the interim, the requirements of the Form F-16 have been added for clarification.

Page 4, Line 1: Identify the rule which sets forth the requirements of the Post-Delivery Report of Training Course Presentation (Form 7-B). See G.S. 150B-2(8a)d.

Response: An addition to the Forms rule 12 NCAC 10B .2201 to include this form is in process. In the interim, the requirements of the Form F-7B has been added for clarification.

Page 4, Line 3: Identify the rule which sets forth the requirements of the Post-Delivery Report of Training Course Presentation (Form 7-A). See G.S. 150B-2(8a)d.

Response: An addition to the Forms rule 12 NCAC 10B .2201 to include this form is in process. In the interim, the requirements of the Form F-7A has been added for clarification.

Page 4, Line 9: Identify the rule in which the procedure for certification of the “training delivery site” is set forth.

Response: Rule .0703(c)(3) includes the procedure for certification of the “training delivery site.” A citation has been added.

Page 4, Lines 11-15: Explain why a rule requiring a majority vote is reasonably necessary pursuant to G.S. 150B-21.9(a)(3)

Response: The Course Management Guide is approved by the Commission. The Commission’s bylaws require a simple majority.

Page 4, Lines 11-15: Explain the agencies’ authority to require adherence to and incorporate by reference another agencies’ document unless that agency has adopted the document pursuant to the Administrative Procedures Act. Please identify the rule where the North Carolina Justice Academy adopted either the Detention Officer Certification Course Management Guide or the Detention Officer Certification Training Manual.

Response: The NC Justice Academy did not adopt the guide or manual. The Justice Academy developed the guide and manual and the Commission adopted both.

Page 4, Line 24: Delete “Amended.”

Response: This has been corrected.

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

William W. Peaslee
Commission Counsel
Date submitted to agency: July 31, 2023

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

AGENCY: Sheriffs' Education and Training Standards Commission

RULE CITATION: 12 NCAC 10B .0705

DEADLINE FOR RECEIPT: August 11, 2023

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

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

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

Lines 8, 23, 24 and 26: These subparagraphs are not "qualifications".

Response: Line 8 references the requirement to submit the written designation (i.e. application) which is a qualification. The language was modified to more accurately portray that these criteria shall be maintained to continuously serve as a school director.

Lines 8, 23, 24 and 26: Explain the Commission's authority to direct employees, including the school director if there is one, of Detention Officer Certification Course providers.

Response: Session Bill 611 updating G.S. 17E-(4)(a) provides this authority.

Line 21: Define or delete "for cause".

Response: It has been deleted as it is not necessary.

Line 23: How can a person perform the "duties and responsibilities of a school director" when by this rule they cannot perform those duties and responsibilities until they qualify?

Response: The language was modified to make it clearer that these are criteria that must be maintained continuously to serve as a school director. Specifically, for line 23, there is a reference of how to maintain these criteria in Rule .0704.

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

William W. Peaslee
Commission Counsel
Date submitted to agency: July 31, 2023

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

AGENCY: Sheriffs' Education and Training Standards Commission

RULE CITATION: 12 NCAC 10B .0903

DEADLINE FOR RECEIPT: August 11, 2023

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

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

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

Lines 5-7: Pursuant to what process? Add a citation to the rule or rules which establish the certification process(es).

Response: A citation to rules .0905, .0907, and .0909 has been added.

Line 13: "remain knowledgeable" is unclear and ambiguous.

Response: "Remain knowledgeable" is not necessary and has been deleted.

Line 14: It is unclear and ambiguous who the "curriculum developer" is.

Response: Language has been added to clarify that the curriculum developer is approved by the Commission.

Line 15: It appears that the Commission is delegating its authority to determine the time within an instructor must complete a curriculum to the curriculum developer. Explain the Commission's authority to do so.

Response: The Commission is not delegating its authority. It is conducting oversight as authorized by G.S. 17E-4.

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

William W. Peaslee
Commission Counsel
Date submitted to agency: July 31, 2023

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

AGENCY: Sheriffs' Education and Training Standards Commission

RULE CITATION: 12 NCAC 10B .0906

DEADLINE FOR RECEIPT: August 11, 2023

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

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

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

Line 4: The Commission use of the word "may" implies that the Commission has criteria other than that listed in the rule which it shall consider in its determination. What are those criteria?

Response: Language was added to clarify that they must apply and meet the criteria set out in Rule .0907.

Line 9: "Accredited" by whom?

Response: An accreditation agency recognized by the United States Department of Education.

Line 10: By what process does the Commission "recognize" a school director?

Response: A school director certified by either commission.

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

William W. Peaslee
Commission Counsel

Date submitted to agency: July 31, 2023

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

AGENCY: Sheriffs' Education and Training Standards Commission

RULE CITATION: 12 NCAC 10B .1302

DEADLINE FOR RECEIPT: August 11, 2023

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

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

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

Lines 1: "Adopts" is rule-language. Specifically which rules of the NC Justice Academy is the Commission adopting?

Response: The word "adopts" was replaced with "approves."

Lines 34-35: The Commission does not have the authority to establish "standards and requirements" by incorporating by reference a document which has not been adopted pursuant to the Administrative Procedures Act.

Response: The Commission approves the Course Management Guide and Manual as developed by the Justice Academy.

Page 2, Line 1: Consider re-writing this paragraph. "May" is permissive language. That which is not restricted is permissible. Consider: "No Telecommunicator Certification Course shall be offered by any persons, agencies, or institutions without the approval of the Commission pursuant to _____. (Insert rule establishing process) "Any persons, agencies, or institutions desiring to offer the Telecommunicator Certification Course shall file a Pre-delivery Report (Form F-7A-T) with the Commission. Form F-7A-T shall contain..."

Response: Your language is used in this paragraph. Included are citations to Rule .0709 and .0804. The language about Form F-7A-T was moved to the end in anticipation of the Forms rule in process as previously mentioned.

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

William W. Peaslee
Commission Counsel
Date submitted to agency: July 31, 2023

12 NCAC 10B .0604 is amended with changes as published in 37:02 NCR 180:

12 NCAC 10B .0604 TRAINEE ATTENDANCE

(a) Each trainee enrolled in ~~an any~~ accredited "~~Detention- Detention~~ Officer Certification ~~Course~~" Course shall attend all required class ~~sessions. sessions pursuant to Rules .0601 and .0603 of this Subchapter. The sheriff shall be responsible for the trainee's regular attendance at all required sessions of the detention officer training course.~~

(b) The school director may recognize valid reasons for class absences and may excuse a trainee from attendance at ~~specific~~ class sessions. Valid reasons to excuse attendance are instances of illness, accident, or emergency pursuant to .0605(a)(1) of this Subchapter. However, in no case may excused absences exceed ~~ten~~ 10 percent of the total required class hours for the course offering pursuant to Rules .0601 and .0603 of this Subchapter.

(c) If the school director grants an excused absence from a class session, he shall schedule appropriate make-up work of the excused class session with a Commission certified instructor pursuant to 12 NCAC 10B .0704 and ensure the satisfactory completion of such work class sessions during the current course presentation or in a subsequent course delivery as is permissible under 12 NCAC 10B .0605.

(d) A trainee shall not be eligible for administration of the State Comprehensive Examination pursuant to Rule .0606 of this Subchapter nor certification for successful course completion if the cumulative total of class absences, with accepted make-up ~~work~~ class sessions as set out in Paragraph (c) of this Rule, exceeds 10 percent of the total required class hours of the accredited course offering pursuant to Rules .0601 and .0603 of this Subchapter and shall be expeditedly terminated from further course participation by the school director at the time of such occurrence.

(e) The school director may terminate a trainee from course participation or may deny certification of successful course completion where the trainee is habitually tardy to, or regularly departs early from, class meetings sessions or field exercises.

(f) Where a trainee is enrolled in a program as required in 12 NCAC 10B .0601, attendance shall be 100 percent in order to receive a successful course completion.

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

Eff. January 1, 1989;

Amended Eff. January 1, 1996; 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, 2022/November 1, 2023.

12 NCAC 10B .0605 is amended with changes as published in 37:02 NCR 181:

12 NCAC 10B .0605 COMPLETION OF DETENTION OFFICER CERTIFICATION COURSE

(a) Each trainee shall attend and satisfactorily complete a full course during a single scheduled delivery as set forth in Rule .0601 of this Section unless a waiver has been granted as set forth in Rule .0603 or .1901 of this Subchapter. Satisfactory completion is achieved by completion of the required topics, passing the end of block tests and passing the state examination as set out in Rule .0606 of this Section. The school director may develop supplemental rules as set forth in Rule .0704(a)(6) of this Subchapter, but may not add substantive courses, or change or expand the substance of the courses set forth in Rule .0601 of this ~~Section~~ Section, except as provided by Rule .0603 of this Section. This Rule does not prevent the instruction on local agency rules or standards; however, such instruction shall not be considered or endorsed by the Commission for purposes of certification. The Director may shall issue prior written authorization for a specified trainee's limited enrollment in a subsequent delivery of the same course where the school director provides evidence that:

- (1) The trainee attended and satisfactorily completed specified class hours and topics of the applicable ~~"Detention~~ Detention Officer Certification ~~Course"~~ Course but through extended absence occasioned by illness, accident, or emergency was absent for more than 10 percent of the total class hours of the course offering;
- (2) The trainee was granted excused absences by the school director that did not exceed ten 10 percent of the total class hours for the course offering and the school director could not schedule appropriate make-up work during the current course offering as specified in Rule .0604(c) of this Section; or
- (3) The trainee participated in an offering of ~~the any~~ "Detention Detention Officer Certification ~~Course"~~ Course but had an identified deficiency in essential knowledge or skill in no more than three of the specified topic areas incorporated in the course content as set forth in Rule .0601(b) or .0603 of this Section.

(b) An authorization of limited enrollment in a subsequent course delivery may shall not be granted by the Director unless in addition to the evidence required by Paragraph (a) of this Rule:

- (1) The trainee submits a written request to the Director, justifying the limited enrollment and certifying that the trainee's participation shall be accomplished pursuant to Paragraph (c) of this Rule; and
- (2) The school director of the previous school offering submits to the director Director a certification of the particular topics and class hours attended and satisfactorily completed by the trainee during the original enrollment.

(c) An authorization of limited enrollment in a subsequent course delivery permits the trainee to attend an offering of ~~the any~~ "Detention Detention Officer Certification ~~Course"~~ Course commencing within 180 calendar days from the last date of trainee participation in prior course delivery, but only if the trainee's enrollment with active current course participation can be accomplished within the period of the trainee's probationary ~~certification:~~ certification.

- 1 (1) The trainee need attend and satisfactorily complete only those portions of the course which were
2 missed or identified by the school director as areas of trainee deficiency in the initial course
3 participation.
- 4 (2) Following authorized enrollment in the subsequent course offering, scheduled class attendance and
5 ~~active~~ participation with satisfactory achievement in the ~~course, course~~ as defined in Paragraph (a)
6 ~~of this Rule~~, the trainee shall be eligible for administration of the State Comprehensive Examination
7 by the Commission.
- 8 (3) A trainee shall be enrolled as a limited enrollee in only one subsequent course offering within the
9 180 calendar days from the last date of trainee participation in prior course delivery. A trainee who
10 fails to complete those limited portions of the course after one retest shall enroll in an entire delivery
11 of the Detention Officer Certification Course.
- 12 (d) A trainee who is deficient in four or more subject-matter or topical areas at the conclusion of the course delivery
13 shall complete ~~a subsequent program in its entirety, an entire delivery of the Detention Officer Certification Course~~
14

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

16 *Eff. January 1, 1989;*

17 *Amended Eff. February 1, 2014; August 1, 1998; January 1, 1996; January 1, 1993; January 1,*
18 *1992; January 1, 1991;*

19 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*
20 *2018.*

21 *Amended Eff. ~~November 1, 2022~~ November 1, 2023.*
22

12 NCAC 10B .0606 is amended with changes as published in 37:02 NCR 181-182:

12 NCAC 10B .0606 COMP WRITTEN EXAM – DETENTION OFFICER CERTIFICATION COURSE

(a) At the conclusion of a school's offering of ~~the any "Detention~~ Detention Officer Certification Course", Course, an authorized representative of the Commission shall administer a comprehensive written examination to each trainee who has satisfactorily completed all of the required course work pursuant to Rule .0605(a) of this Subchapter. A trainee shall not be administered the comprehensive written examination until such time as all required course work is successfully completed pursuant to Rule .0605(a) of this Subchapter.

(b) The examination shall be comprised of four units as specified in 12 NCAC 10B .0601(b). Each unit is designed to test the trainees' proficiency in that unit.

(c) The Commission's representative shall submit to the school director within 10 days of the administration of the examination a report of the results of the test for each trainee examined.

(d) A trainee shall successfully complete the comprehensive written examination upon achieving a minimum of 70 percent correct answers on each of the four units as prescribed in 12 NCAC 10B .0601(b).

(e) A trainee who has fully participated in a scheduled delivery of ~~a certified training course~~ any Detention Officer Certification Course and has demonstrated satisfactory competence in each required motor-skill or performance area of the course curriculum but has failed to achieve the minimum score of 70 percent on any of the four units of the Commission's comprehensive written examination may request the Director to authorize a re-examination of the trainee in those units for which he or she has failed to make a passing score of 70 percent as follows:

- (1) A trainee's request for re-examination shall be made in writing on the Commission's form within 30 days after the original examination and shall be received by the Division before the expiration of the trainee's probationary certification as a detention officer.
- (2) The trainee's request for re-examination shall include the favorable recommendation of the school director who administered the trainee's ~~"Detention~~ Detention Officer Certification Course", Course.
- (3) A trainee shall have only one opportunity for re-examination and shall satisfactorily complete the subsequent unit examination in its entirety within 90 days after the original examination.
- (4) A trainee shall be assigned in writing by the Division a place, time, and date for re-examination.
- (5) Should the trainee on re-examination not achieve the prescribed minimum score of 70 on the unit re-examination, the trainee shall not be given successful course completion and must enroll and successfully complete the unit(s) he or she failed upon re-examination in a subsequent course offering within 180 days of the second failure before further examination may be permitted. The trainee's failure to complete the course offering within 180 days shall require the trainee to complete an entire delivery of the Detention Officer Certification Course.

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

Eff. January 1, 1989;

Amended Eff. August 1, 2011; August 1, 2002; January 1, 1996; January 1, 1994; January 1, 1992;

1 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*
2 *2018.*
3 *Amended Eff. [~~November 1, 2022~~ / November 1, 2023].*

12 NCAC 10B .0704 is ~~amended~~ **adopted** with changes as published in 37:13 NCR 933-935:

12 NCAC 10B .0704 RESPONSIBILITIES: ~~SCHOOL~~ SCHOOLS ~~DIRECTORS, AND~~ DETENTION OFFICER COURSE COURSES

(a) In planning, developing, coordinating, and delivering any commission-certified Detention Officer Certification Courses, the school shall:

(1) Formalize and schedule the course curriculum in accordance with the curriculum standards established by the rules in this Chapter.

(A) Any Detention Officer Certification Course shall be presented with a minimum of 40 hours of instruction each week during consecutive calendar weeks until course requirements are completed, with the exception of weeks in which there are regularly scheduled holidays pursuant to G.S. 103-4.

(B) Upon written request by the school delivering a class, the Director shall grant a waiver of the minimum hours requirement to that particular delivery of the class when illness, adverse weather, staffing shortages at the school or law enforcement agency employing the students or hosting the course, a declared state of emergency, incident requiring an emergency response by law enforcement, or riot prevent students from attending class or the school from staffing instructors for the class for 40 hours of instruction a week.

(2) Select and schedule instructors who are certified by the Commission under 12 NCAC 10B .0901 through 12 NCAC 10B .0909. The selecting and scheduling of instructors is subject to special requirements as follows:

(A) No single instructor may be scheduled to instruct more than 35 percent of the total hours of the curriculum during any Detention Officer Certification Course delivery except as set forth in Part (a)(2)(B) of this Rule.

(B) Where the school submits in writing to the Director of the Division a showing of exceptional or emergency circumstances, the Director of the Division shall grant written approval for the expansion of the individual instructional limitation. Emergencies justifying an instructor to teach more than 35 percent of a Detention Officer Certification Course are situations when illness, accident, or other exceptional circumstances make it unfeasible to staff the class with other certified instructors.

(C) The appropriate number of instructors for specific topic areas shall be scheduled as required in 12 NCAC 10B .0703.

(3) Provide each instructor with a Commission-approved course outline and inform each instructor of their duties and responsibilities as specified in the Commissions' regulations and Detention Officer Certification Course Manual and Course Management ~~Guide.~~ **Guide pursuant to 12 NCAC 10B .0601.**

- (4) Review each instructor's lesson plans and other instructional materials for conformance to the rules in this ~~[Chapter]~~ ~~Subchapter~~ and to minimize repetition and duplication of subject matter.
- (5) Arrange for the ~~[timely]~~ availability of audiovisual aids and materials, publications, facilities and equipment for training in all topic areas as required in any ~~[Detention]~~ "Detention Officer Certification Course Management Guide" as published by the North Carolina Justice Academy ~~and adopted by the Commission~~ which shall be used as the basic curriculum for ~~[the]~~ Detention Officer Certification ~~[Course.]~~ ~~Courses~~. Copies of this manual may be obtained by contacting the North Carolina Justice Academy, Post Office Box 99, Salemburg, North Carolina 28385-0099. The cost of this manual, CD, indexes and binder is ~~[fifty-one dollars and seventy-five cents (\$51.75)]~~ ~~one hundred seven dollars and seventy cents (\$107.70)~~ at the time this Rule was last amended. The "Detention Officer Certification Course Management Guide" published by the North Carolina Justice Academy ~~and adopted by the Commission~~ is hereby incorporated by reference, including subsequent amendments and editions, and shall be used by school directors in planning, implementing, and delivering basic detention officer training. The standards and requirements established by the "Detention Officer Certification Course Management Guide" shall be adhered to by the school director. The ~~Justice Academy~~ "Detention Officer Certification Course Management Guide" ~~shall~~ ~~is available at the Justice Academy~~ to each certified school director ~~a copy of the guide~~ at the time of certification at no cost to the certified school.
- (6) If the ~~[School]~~ ~~school~~ adopts ~~[rules]~~ ~~rules, regulations, and requirements~~ that ~~[exceeds]~~ ~~exceed~~ the minimum requirements of this Subchapter regarding the delivery of a Detention Officer Certification ~~[course.]~~ ~~Course~~, the school shall submit ~~the rules, regulations, and requirements~~ to the Director as an ~~[Attachment]~~ ~~attachment~~ to the Pre-Delivery Report of Training Course Presentation, Form F-7A. A copy of such rules shall also be given to each trainee and to the sheriff of each trainee's employing agency at the time the trainee enrolls in the course.
- ~~[(7)]~~ ~~A copy of such rules, regulations and requirements adopted by the school pursuant to Subparagraph (a)(6) of this Rule shall be submitted to the Director as an attachment to the Pre-Delivery Report of Training Course Presentation, Form F-7A. A copy of such rules shall also be given to each trainee and to the sheriff or agency head of each trainee's employing agency at the time the trainee enrolls in the course.]~~
- ~~[(8)]~~ ~~(7)~~ Not less than 30 days before commencing delivery of the course, submit to the Commission a Pre-Delivery Report of Training Course Presentation (Form F-7A) that shall contain information on the course delivery location, school director, class schedule, anticipated date of the State Comprehensive Exam, and any planned instructional hours in addition to the minimum requirements along with the following attachments:
- (A) A comprehensive course schedule showing the arrangement of topical presentations and proposed instructional assignments;

(B) A copy of any rules, regulations, and requirements for the school and, when appropriate, completed applications for certification of instructors. The Director shall review the submitted Pre-Delivery Report together with all attachments to ensure that the school is in compliance with all Commission rules; if the school's rules are found to be in violation, the Director shall notify the school of any deficiency, and approval shall be withheld until all matters are in compliance with the Commissions' rules.

~~(9)~~(8) ~~[Shall have]~~ Have probationary instructors evaluated by an instructor certified pursuant to 12 NCAC 10B .0905 or certified as a general instructor pursuant to 12 NCAC 09B .0301 using Form F-16. If a Limited Lecturer is evaluated during the practical portion of a block of instruction, the school must designate an instructor certified to instruct the practical portion of the block of instruction to evaluate the instructor using Form F-16. These evaluations on Form F-16 shall be submitted to the Division at the conclusion of each course delivery. Based on the evaluation referenced in 12 NCAC 10B .0905(b)(1), the school shall recommend approval or denial of requests for Detention Officer Instructor Certification, Limited Lecturer Certification, or Professional Lecturer Certification. The observations shall ensure the instructor is using the Instructional Systems Design model, as taught in Criminal Justice Instructor Training set out in 12 NCAC 09B .0209, and that the delivery follows the training objectives in the commission-approved ~~lesson plan curriculum~~. For each topic area, the designee's evaluation shall be based on the course delivery observations, the instructor's use of the approved lesson plan, and the results of student evaluations of the instructor.

~~(40)~~(9) ~~[Shall have]~~ Have all other instructors evaluated by an instructor certified pursuant to 12 NCAC 10B .0905 or certified as a general instructor pursuant to 12 NCAC 09B .0301 using Form F-16. If a Limited Lecturer is evaluated during the practical portion of a block of instruction, the school must designate an instructor certified to instruct the practical portion of the block of instruction to evaluate the instructor using Form F-16. These evaluations on Form F-16 shall be submitted to the Division at the conclusion of each course delivery. The observations shall ensure the instructor is using the Instructional Systems Design model, as taught in Criminal Justice Instructor Training set out in 12 NCAC 09B .0209, and that the delivery follows the training objectives in the commission-approved lesson plan. For each topic area, the designee's evaluation shall be based on the course delivery observations, the instructor's use of the approved lesson plan, and the results of student evaluations of the instructor. ~~[Form F-16 shall contain information on the instructor, evaluator, courses taught and observed, location and time of delivery, sponsoring agency, and evaluation of instructor performance based upon instructor ability and use of instructional strategies taught in the Criminal Justice Instructor Training.]~~

~~(44)~~(10) Ensure that any designated certified instructor who is evaluating the instructional presentation of another, holds certification in the same instructional topic area as that being taught.

~~(42)~~(11) Administer tests at the end of each topic area as specified in 12 NCAC 10B .0601 during the course delivery.

1 ~~[(13)]~~(12) Maintain supervision, direction, and control over the performance of all persons to whom any
2 portion of the planning, development, presentation, or administration of a course has been assigned.

3 ~~[(14)]~~(13) Administer all course work pursuant to 12 NCAC 10B .0606.

4 ~~[(15)]~~(14) Submit to the Commission a Post-Delivery Report of Training Course Presentation (Form 7-B),
5 which shall contain information on the sponsoring agency, course beginning and end date, and
6 deviations from the planned course delivery as specified on Form 7-A, within 10 days of receiving
7 the Commission's Report of Examination Scores.

8 (b) In addition to the requirements in Paragraph (a) of this Rule, the school shall designate a point of contact who
9 shall be available to students and Division staff at all times during course delivery by telephone or other means.
10 Available means that the point of contact may be contacted at any time of day or night by students, school personnel,
11 or division staff and shall return the call or other means of communication within 12 hours of contact if initial contact
12 is not successful. The means, and applicable numbers, shall be filed with the commission-certified training delivery
13 site pursuant to Rule .0703(c)(3) of this Subchapter and the Division prior to the beginning of a scheduled course
14 delivery.

15 (c) The Commission shall examine the Detention Officer Certification Course Management Guide and Detention
16 Officer Certification Course Training Manual developed by the North Carolina Justice Academy and vote by simple
17 majority on whether to approve them as setting the curriculum and course management requirements for ~~the~~ any
18 Detention Officer Certification Course. Subsequent substantive changes to either the Training Manual or Course
19 Management Guide must be approved by a majority vote by the Commission.

20 (d) Forms:

21 (1) Form F-7A and F-7A-T, Pre-Delivery Report of Training Course Presentation, is completed by the
22 institution or agency delivering Detention Officer and Telecommunicator Training Courses and
23 consists of information on the course delivery location, school director, class schedule, anticipated
24 date of the State Comprehensive Exam, and any planned instructional hours exceeding the minimum
25 requirements. Form F-7A is utilized for Detention Officer courses and Form F-7A-T is utilized for
26 Telecommunicator courses.

27 (2) Form F-7B and F-7B-T, Post-Delivery Report of Training Course Presentation, is completed by the
28 institution or agency delivering Detention Officer and Telecommunicator Training Courses and
29 consists of information on any substitutions of instructors as originally reported on the Pre-Delivery
30 Report, any trainees who were not recommended for the state exam due to withdrawal or
31 deficiencies, and the students who participated in and completed the course. Form F-7B is utilized
32 for Detention Officer courses and Form F-7B-T is utilized for Telecommunicator courses.

33 (3) Form F-16, Criminal Justice Instructor Evaluation, is completed by the Certified School Director
34 and In-Service Coordinator of the school and consists of a rating of instructional ability, student
35 participation, and presentation of the lesson plan by the Instructor.

1 *History Note: Authority G.S. 17E-4;*
2 *Eff. January 1, 1989;*
3 *Amended Eff. November 1, 2022, January 1, 2009; January 1, 2006; January 1, 2005; August 1,*
4 *1998; January 1, 1996; January 1, 1994; January 1, 1992;*
5 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*
6 *2018.*
7 *RRC Objection July 21, 2022 and rule returned to agency on September 27, 2022.*
8 *Amended Eff. [August 1, 2023.] September 1, 2023.*
9
10

12 NCAC 10B .0705 is amended with changes as published in 37:02 NCR 185-186:

12NCAC 10B .0705 QUALIFICATIONS TO ACT AS SCHOOL DIRECTORS

Any person designated to act as, or who performs the duties of, a school director in the delivery or presentation of a any commission-accredited Detention Officer Certification Course ~~detention officer training course~~ shall meet the following qualifications prior to commencing duties as such. Any designated school director will continuously maintain these qualifications during service as a school director.

- (1) Submit a written designation as school director executed by the executive officer of the institution or agency currently accredited, or which may be seeking accreditation, by the Commission to make presentation of accredited training programs;
- (2) Be certified as a criminal justice instructor by the North Carolina Criminal Justice Education and Training Standards Commission;
- (3) Attend or must have attended the most current offering of the school director's orientation as developed and presented by the Commission staff;
- (4) Attend or must have attended the most current offering of the school director's conference as presented by the Commission staff and staff of the North Carolina Criminal Justice Education and Training Standards Commission and Standards Division;
- (5) Not have had any type of certification issued from this Commission, from the North Carolina Criminal Justice Education and Training Standards Commission, or from any commission, agency, or board established to certify pursuant to said commission, agency or boards' standards, which was revoked, suspended or denied for cause and such period of sanction is still in effect at the time of designation;
- (6) Perform the duties and responsibilities of a school director as specifically required in Rule .0704;
- (7) Maintain an updated copy of the "Detention Officer Certification Training Manual" assigned to each accredited school; and
- (8) Ensure compliance with the Commission's accreditation requirements as set forth in 12 NCAC 10B .0703 and .0802.

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

Eff. January 1, 1989;

Amended Eff. August 1, 2002; August 1, 1998; January 1, 1996; January 1, 1992; January 1, 1991;

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

Amended Eff. November 1, 2022/November 1, 2023.

12 NCAC 10B .0903 is amended with changes as published in 37:02 NCR 188:

12 NCAC 10B .0903 CERT: INSTRUCTORS FOR DETENTION OFFICER CERTIFICATION COURSE

(a) Any person participating in a any commission-certified Detention Officer Certification Course as an instructor, teacher, professor, lecturer, or other participant making presentations to the class shall first be certified by the Commission as an instructor.

(b) The Commission shall certify Detention Officer Certification Course instructors under the following categories:

(1) Detention Officer Instructor Certification;

(2) Professional Lecturer Certification; or

(3) Limited Lecturer Certification as outlined in Rules .0904, .0906 and .0908 of this Section.

(c) In addition to all other requirements of this Section, all instructors certified by the Commission to teach in a any commission-certified Detention Officer Certification Course shall remain knowledgeable and attend and complete any instructor training updates related to curriculum content and delivery as may be offered by the curriculum developer and within the time period as specified by the curriculum developer.

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

Eff. January 1, 1989;

Amended Eff. January 1, 2005; August 1, 1998; January 1, 1996; January 1, 1990;

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

Amended Eff. ~~November 1, 2022~~ November 1, 2023.

12 NCAC 10B .0906 is amended with changes as published in 37:02 NCR 188:

12 NCAC 10B .0906 PROFESSIONAL LECTURER CERTIFICATION

(a) The Commission may issue Professional Lecturer Certification to a licensed attorney-at-law or a person with a law degree to teach "Legal Aspects of Jail Management and Administration" or other approved Detention Officer Certification Course legal block in the any Detention Officer Certification Course.

(b) To be eligible for such certification an applicant shall present documentary evidence demonstrating that the applicant has:

(1) graduated from an accredited law school;

(2) obtained the endorsement of a commission recognized school director who shall:

(A) recommend the applicant for certification as a professional lecturer; and

(B) describe the applicant's expected participation, topical areas, duties and responsibilities.

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

Eff. January 1, 1989;

Amended Eff. January 1, 1996; January 1, 1994; 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, 2022/November 1, 2023.

12 NCAC 10B .1302 is amended with changes as published in 37:13 NCR 935-936:

12 NCAC 10B .1302 TELECOMMUNICATOR CERTIFICATION COURSE

(a) The Commission hereby ~~accredits~~ **adopts** **approves** as its telecommunicator certification training program, the 47-hour Telecommunicator Certification Course developed by the North Carolina Justice Academy.

(b) Each Telecommunicator Certification Course shall include the following identified topic areas and ~~approximate~~ minimum instructional hours for each area:

(1)	Orientation	2 hours
(2)	Introductory Topics for the Telecommunicator	2 3 hours
(3)	Interpersonal Communication	4 2 hours
(4)	Civil Liability for the Telecommunicator	4 5 hours
(5)	Telecommunications Systems and Equipment	2 3 hours
(6)	Overview of Emergency Services	9 7 hours
(7)	Communications Resources	2 hours
(8) (7)	Call Reception, Prioritization, and Resource Allocation Reception and Prioritization	6 8 hours
(9) (8)	Broadcasting Techniques, Rules, and Procedures <u>Techniques and Resource Allocation</u>	6 7 hours
(10) (9)	Telecommunicator Training Practicum	8 hours
(11) (10)	State Comprehensive Examination	2 hours
	TOTAL HOURS	47 hours

(c) Consistent with the curriculum development policy of the Commission as published in the "Telecommunicator Certification Course Management ~~Guide~~", Guide," the Commission shall designate the developer of the Telecommunicator Certification Course curricula and such designation shall be deemed by the Commission as approval for the developer to conduct pilot Telecommunicator Certification Courses. Individuals who complete such a pilot Telecommunicator Certification Course offering shall be deemed to have complied with and satisfied the minimum training requirement.

(d) The "Telecommunicator Certification Training ~~Manual~~" Manual," as published by the North Carolina Justice ~~Academy~~ Academy, shall be used and shall automatically include any later amendments and editions of the incorporated matter to apply as the basic curriculum for the Telecommunicator Certification Course. Copies of this manual may be obtained by contacting the North Carolina Justice Academy, Post Office Box 99, Salemburg, North Carolina 28385-0099.

(e) The "Telecommunicator Certification Course Management ~~Guide~~" Guide," as published by the North Carolina Justice ~~Academy~~ Academy, shall be used and shall automatically include any later amendments, editions of the incorporated matter to be used by certified ~~school~~ schools ~~directors~~ in planning, implementing and delivering basic telecommunicator training. The standards and requirements established by the "Telecommunicator Certification Course Management Guide" must be adhered to by the certified ~~school director~~ school. Each certified school ~~director~~ shall be issued a copy of the guide at the time of certification at no cost to the accredited school. **Copies of this manual**

1 may be obtained by contacting the North Carolina Justice Academy, Post Office Box 99, Salemburg, North Carolina
2 28385-0099.

3 (f) ~~Institutions may offer to deliver the Telecommunicator Certification Course after the Commission has approved~~
4 ~~the institution's pre-delivery report documenting who will be teaching the blocks of instruction for each course~~
5 ~~offering. No Telecommunicator Certification Course shall be offered by any persons, agencies, or institutions without~~
6 ~~the approval of the Commission pursuant to Rule .0709 and .0804 of this Subchapter. Any persons, agencies, or~~
7 ~~institutions desiring to offer the Telecommunicator Certification Course shall file a Pre-Delivery Report (Form F-7A-~~
8 ~~T). [The pre-delivery report Form F-7A-T shall contain information on the name of the institution or agency hosting~~
9 ~~the course, the name of the school director, location, hours to be taught, schedule, number of students, and any hours~~
10 ~~of instruction in addition to those required by this Rule.]~~

11 (g) Form:

12 (1) Form F-7A and F-7A-T, Pre-Delivery Report of Training Course Presentation, is completed by the
13 institution or agency delivering Detention Officer and Telecommunicator Training Courses and consists of
14 information on the course delivery location, school director, class schedule, anticipated date of the State
15 Comprehensive Exam, and any planned instructional hours exceeding the minimum requirements. Form F-
16 7A is utilized for Detention Officer courses and Form F-7A-T is utilized for Telecommunicator courses.

17
18 *History Note: Authority G.S. 17E-4(a);*
19 *Temporary Adoption Eff. March 1, 1998;*
20 *Eff. August 1, 1998;*
21 *Amended Eff. April 1, 2001;*
22 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*
23 *2018.*
24 *Amended Eff. [August 1, 2023.] September 1, 2023.*
25

Burgos, Alexander N

Subject: FW: 12 NCAC 10B .0503

From: Peaslee, William W <bill.peaslee@oah.nc.gov>

Sent: Friday, August 11, 2023 12:13 PM

To: Bowman, Melissa M <mbowman@ncdoj.gov>

Cc: Squires, Richard N <rsquires@ncdoj.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>

Subject: 12 NCAC 10B .0503

Good morning.

Thank you for our telephone conversation yesterday. It provided me greater clarity of the Commission's intentions.

In lines 4-15, Paragraph (a): Explain the Commission's authority to require temporary deputies and probationary deputies to complete the BLET and pass the State Comprehensive Examination. In G.S. 17E-7(b), the General Assembly mandated, by the use of the word "shall," that the Commission adopt a rule requiring justice officers (deputies pursuant to G.S. 17E-2(3)), "except on a temporary or probationary basis" (emphasis added) to "satisfactorily complete an initial preparatory program of training" or be "exempted from that requirement by the Commission pursuant to this Chapter."

Lines 16-17: It is unclear what extension of 30 days is being requested. Is the Commission allowing an additional month from the date of course completion within which to be person must be appointed? Lines 21-23 imply it is an extension of time within which to seek certification, but the rule does not set a time limit for applying for certification.

Lines 21-23: As written, the rule now empowers the Director to grant an extension of some sort; however, the Commission only grants this empowerment if the Director first determines that the "delay in applying for certification was due to negligence." Then the Director "may" grant a 30-day extension of something; however, the rule does not identify what criteria the Director must use in making this determination. This is basically a waiver or modification of some requirement without specific guidelines. Please see G.S. 150B-19-(6).

Please responds no later than 12:00pm, Monday August 14th.

For your convenience here are the rules concerning a request for an [extension of time](#) to respond and [withdrawing a rule](#).

Thank you.

William W. Peaslee

Rules Review Commission Counsel / Legislative Liaison

Office of Administrative Hearings

1711 New Hope Church Road

Raleigh NC, 27609

(984) 236-1939

Bill.Peaslee@oah.nc.gov

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Burgos, Alexander N

From: Peaslee, William W
Sent: Friday, August 11, 2023 10:56 AM
To: Bowman, Melissa M
Cc: Squires, Richard N; Burgos, Alexander N
Subject: 12 NCAC 10B .0503
Attachments: Notes from telephone conversation with Melissa Bowman and Director Richard Squires with the Sheriffs.docx

Good morning:

Attached are my notes from our telephone conversation regarding the above captioned rule. If you believe that the notes contain an error or are incomplete, please let me know so that your concerns, editions, or corrections can be documented.

I will review the revised rule shortly.

Thank you.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
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Notes from telephone conversation with Melissa Bowman and Director Richard Squires with the Sheriffs' Education and Training Standards Commission.

Date of Telephone call: August 10, 2023

In Re: 12 NCAC 10B .0502

This memo is to memorialize the telephone conversation between the participants and does not necessarily reflect RRC's counsel or the opinion of the rule.

Under current law, a person can be appointed a deputy sheriff without having to have completed the Basic Law Enforcement Training (BLET). This person would receive a probationary certificate from the Commission and would serve in probationary status for one year within which he/she would have to complete the BLET. Failure to timely obtain pass the BLET would result in the loss of the deputy's necessary probationary certificate.

The Commission desires to change its rules so that a person must complete the BLET (and pass the test) within one year prior to appointment as a deputy sheriff. The person would then serve one year as a probationary deputy sheriff unless otherwise terminated. Once the year had passed, the person would transition to non-probationary status and receive another certificate as a deputy sheriff without any further requirements.

The Commission also desires for a person who has completed the passed the BLET over a year preceding the appointment may receive a probationary certificate but only if the Director determines that the failure to be appointed was the result of neglect. The person receiving the probationary certificate under these circumstances would have to retake the BLET successfully within one year of appointment prior obtaining the non-probationary deputy certificate.

We also spoke about extensions of RRC review pursuant to 150B-21.13, and the Commission's ability to withdraw the rule.

Burgos, Alexander N

Subject: FW: [External] Rules clarification
Attachments: 12 NCAC 10B .0503.docx

From: Bowman, Melissa <mbowman@NCDOJ.GOV>
Sent: Thursday, August 10, 2023 5:31 PM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: Squires, Richard N <rsquires@ncdoj.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] Rules clarification

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Good evening,

Thank you for speaking with Director Squires and myself today. Based on our conversation, here is a revised version of 12 NCAC 10B .0503. We will determine our next steps with this rule once we hear back from you.

Thank you,
Melissa Bowman



Melissa Bowman
CJ Specialist/Investigator III
Sheriffs' Standards Division
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1 12 NCAC 10B .0503 is amended with changes as published in 37:02 NCR 176-177 as follows:

2
3 **12 NCAC 10B .0503 TIME REQ/COMPLETION/BASIC LAW ENFORCEMENT TRAINING COURSE**

4 (a) ~~Each deputy sheriff shall have completed with passing scores the accredited basic training course as prescribed in~~
5 ~~12 NCAC 09B .0205 prior to obtaining probationary certification. holding temporary or probationary certification~~
6 ~~shall complete a Commission certified basic training course pursuant to 12 NCAC 09B .0405, within one year from~~
7 ~~the date of his or her Oath of Office. To be eligible to be certified a Deputy Sheriff pursuant to 12 NCAC 10B .0401,~~
8 ~~certification-applicants shall have completed a Commission-certified basic law enforcement training program and~~
9 ~~passed the State Comprehensive Examination pursuant to 12 NCAC 09B .0405 within one year of appointment as~~
10 ~~defined in 12 NCAC 10B .0103(1). Any deputy sheriff applicant who does not comply with this Rule or other training~~
11 ~~provisions of this Chapter shall not exercise the powers of a deputy sheriff, including the power of arrest. If, however,~~
12 ~~an officer has enrolled in a Commission-certified basic law enforcement training program that concludes later than~~
13 ~~the end of the officer's probationary period, the Commission may extend the probationary period for a period not to~~
14 ~~exceed 12 months. In determining whether to grant an extension, the Commission shall consider the circumstances~~
15 ~~that created the need for the extension.~~

16 (b) Any ~~person~~ **applicant** who has completed a Commission-certified basic law enforcement training program, but
17 has not been duly appointed ~~may request in writing from the Director an extension not to exceed 30 days from the~~
18 ~~expiration date of a commission-certified basic law enforcement training program. and certified in a sworn law~~
19 ~~enforcement position within one year of completion of the course, shall complete a subsequent Commission certified~~
20 ~~basic recruit training program and pass the State Comprehensive Examination within the 12 month probationary~~
21 ~~period. The Director shall waive this requirement and accept a course that was completed outside of the one year time~~
22 ~~period as set forth in Paragraph (a) of this Rule may grant the extension~~ unless he or she determines that a delay in
23 applying for certification was due to negligence on the part of the applicant or employing agency. ~~The extension of~~
24 ~~the one year period shall not exceed 30 days from the expiration date of a commission-certified basic training program.~~

25
26 *History Note: Authority G.S. 17E-4; 17E-7;*

27 *Eff. January 1, 1989;*

28 *Amended Eff. January 1, 2006; January 1, 1996; January 1, 1994; January 1, 1991;*

29 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*
30 *2018;*

31 *Amended Eff. [July 1, 2023;] July 1, 2024; June 1, 2019.*

Burgos, Alexander N

Subject: FW: [External] Rules clarification

From: Bowman, Melissa <mbowman@NCDOJ.GOV>

Sent: Thursday, August 10, 2023 1:37 PM

To: Peaslee, William W <bill.peaslee@oah.nc.gov>

Cc: Squires, Richard N <rsquires@ncdoj.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>

Subject: RE: [External] Rules clarification

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Yes, we are available. Please call my direct number at 919-662-4495.



Melissa Bowman

CJ Specialist/Investigator III

Sheriffs' Standards Division

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From: Peaslee, William W <bill.peaslee@oah.nc.gov>

Sent: Thursday, August 10, 2023 1:35 PM

To: Bowman, Melissa <mbowman@NCDOJ.GOV>

Cc: Squires, Richard <RSQUIRES@ncdoj.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>

Subject: RE: [External] Rules clarification

I think a conference call might be beneficial at this point if you are still available.

William W. Peaslee

Rules Review Commission Counsel / Legislative Liaison

Office of Administrative Hearings

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Raleigh NC, 27609

(984) 236-1939

Bill.Peaslee@oah.nc.gov

Burgos, Alexander N

Subject: FW: [External] Rules clarification

From: Bowman, Melissa <mbowman@NCDOJ.GOV>
Sent: Thursday, August 10, 2023 1:22 PM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: Squires, Richard N <rsquires@ncdoj.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] Rules clarification

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Good afternoon,

I submitted our responses to your Request for Changes for 12 NCAC 10B .0503 this morning. A phone conference is no longer necessary unless you have remaining questions about that rule based on our response. I apologize for my lack of clarity when I responded this morning.

Thank you,
Melissa Bowman



Melissa Bowman
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From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Thursday, August 10, 2023 1:05 PM
To: Bowman, Melissa <mbowman@NCDOJ.GOV>
Cc: Squires, Richard <RSQUIRES@ncdoj.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] Rules clarification

Good afternoon,

As a possible basis for discussion for our 2:00 conference, I have drafted the following for my understanding of what the Commission wishes to accomplish.

“To be eligible to be certified a Deputy Sheriff pursuant to 12 NCAC 10B .0401, certification-applicants shall have completed a Commission-certified basic law enforcement training program and passed the State Comprehensive Examination pursuant to 12 NCAC 09B .0405 within one year of appointment as defined in 12 NCAC 10B .0103(1).

Please be prepared to explain what I am missing and why any more needs to be stated in a rule. That should help aid my understanding.

Thank you.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
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(984) 236-1939
Bill.Peaslee@oah.nc.gov

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Burgos, Alexander N

Subject: FW: 12 NCAC 10B .0402

From: Peaslee, William W
Sent: Thursday, August 10, 2023 12:24 PM
To: Bowman, Melissa M
Subject: 12 NCAC 10B .0402

Line 6: Neither 12 NCAC 10B .0303(c), or .0503(a) does not extend the probationary certification period.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
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1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

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: 12 NCAC 10B .0503
Attachments: 12 NCAC 10B .0503.docx

From: Bowman, Melissa <mbowman@NCDOJ.GOV>
Sent: Thursday, August 10, 2023 10:24 AM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Squires, Richard N <rsquires@ncdoj.gov>
Subject: [External] RE: 12 NCAC 10B .0503

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Good morning,

Please see our response to your questions about this rule and the rule with changes. I have included all supplemental questions posed below:

Lines 13 and 15: Is the “basic law enforcement” training program in Line 13 and the “basic recruit” training program in Line 15 the same thing? If so, use the same language when referring to the training program. If different, add citations to the rules establishing the different training programs. “Basic recruit” is only used in one other rule(12 NCAC 10B .0501) and there it is referred to as “basic recruit law enforcement training”.

Response: Yes, these are the same training programs and the language has been updated to reflect the same.

The rule goes on to state that Director “shall waive this requirement” “unless the Director determines that a delay in applying for certification was due to negligence” (emphasis added). It seems clear to me that an intentional delay triggers a waiver of “this requirement”. I understand from your response that the Commission does not intent that result, but the language is clear to me. I have an open mind to the question of whether a rule that has an exception that swallows the rule meets the criteria of G.S. 15B-21.9(a).

Response: Hopefully, the language clarifications make it clear that the Director shall waive the requirement to complete another basic law enforcement training program/State Comprehensive Examination unless an intentional delay occurred in which case the requirement to complete another basic law enforcement training program/State Comprehensive Examination will not be waived.

Line 16: “This requirement” is unclear. Is the entire requirement waivable? I think the Commission means the time requirement of 12 months is waivable, but this is unclear.

Response: The requirement in the paragraph is that applicants who have completed the Commission-certified basic law enforcement training program but have not been appointed and certified in a sworn law enforcement position within one year of completion of the program, “shall complete a subsequent basic law enforcement training program and pass the State Comprehensive Examination . . . within the 12 month probationary period.” The language has been updated to reiterate that is the requirement that is waivable. This was the intention of the rule.

Line 17: This line refers to “the one year time period as set forth in Paragraph (a).” Paragraph (a), as amended, does not refer to a one-year time period.

Response: The intention of this part of the rule was the same 12 month/one-year time period of the probationary time period previously referenced in paragraph (a), but also referenced in paragraph (b). The language is updated to clarify this.

Line 17: This line requires the Director to “accept a course”. What does the Commission mean by “a course”? Is that the same as the basic law enforcement training program, or the basic recruit training program, or the basic recruit law enforcement training”? Does the course include passing the State Comprehensive Examination?

Response: The “course” is the same basic law enforcement training program and subsequent State Comprehensive Examination referenced throughout the rule. The language was update to support that same intention of the rule.

Line 20: Here the Commission uses yet another new term “basic training program” which is not used in any other rule. What is a “basic training program”? Is the extension allowed after any basic training program or only after the subsequent basic recruit training program referenced on Line 15?

Response: Yes, it is the same basic law enforcement training program and the language has been updated to be consistent throughout the rule.

Line 8: To which “powers of a duty sheriff,” other than arrest, is the Commission referring? This is unclear and ambiguous.

Response: The “powers of a deputy sheriff” are set out in G.S. 17E-1 and specifically outlined in G.S. Chapter 162 Article 3 of the General Statutes. Please advise if you feel an additional citation is necessary.

Line 13: What is the Commission’s authority to regulate “any person...”? As written, any person who has taken the training program but has not been appointed and certified within one year of course completion “shall” complete a subsequent course. Surely this doesn’t apply to “any person”. It appears that the Commission is trying to establish a prerequisite to attaining an undefined status or perhaps a waiver of some other rule.

Response: “Any person” would be “any applicant for certification” who would be seeking appointment and certification in a law enforcement position. The language was updated to clarify this.

Line 16: Within what 12-month probationary period? The only 12-month probationary period in Chapter 10B is in 12 NCAC 10B .0603. Is that the period to which the Commission refers?

Response: The intention of this part of the rule was the same 12 month/one-year time period of the probationary time period referenced throughout this rule. The language is updated to clarify this.

Please let me know if you need additional information.

Thank you,
Melissa Bowman



Melissa Bowman

CJ Specialist/Investigator III

Sheriffs' Standards Division

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1 12 NCAC 10B .0503 is amended with changes as published in 37:02 NCR 176-177 as follows:

2
3 **12 NCAC 10B .0503 TIME REQ/COMPLETION/BASIC LAW ENFORCEMENT TRAINING COURSE**

4 (a) Each deputy sheriff ~~shall have completed with passing scores the accredited basic training course as prescribed in~~
5 ~~12 NCAC 09B .0205 prior to obtaining probationary certification. holding temporary or probationary certification~~
6 ~~shall complete a Commission-certified basic training course pursuant to 12 NCAC 09B .0405, within one year from~~
7 ~~the date of his or her Oath of Office.~~ Any deputy sheriff who does not comply with this Rule or other training
8 provisions of this Chapter shall not exercise the powers of a deputy sheriff, including the power of arrest. ~~If, however,~~
9 ~~an officer has enrolled in a Commission-certified basic law enforcement training program that concludes later than~~
10 ~~the end of the officer's probationary period, the Commission may extend the probationary period for a period not to~~
11 ~~exceed 12 months. In determining whether to grant an extension, the Commission shall consider the circumstances~~
12 ~~that created the need for the extension.~~

13 (b) ~~Any person~~ Any applicant for certification who has completed a Commission-certified basic law enforcement
14 training program, but has not been duly appointed and certified in a sworn law enforcement position within one year
15 of completion of the course, shall complete a subsequent Commission-certified basic ~~recruit law enforcement~~ training
16 program and pass the State Comprehensive Examination pursuant to 12 NCAC 09B .0406 within the 12 month
17 probationary period. The Director shall waive this requirement to complete a subsequent Commission-certified basic
18 law enforcement training program and pass the State Comprehensive Examination and accept a ~~course~~ basic law
19 enforcement training program and pass the State Comprehensive Examination that was completed outside of the one
20 year time period as set forth in ~~Paragraph (a) of~~ this Rule unless he or she determines that a delay in applying for
21 certification was due to negligence on the part of the applicant or employing agency. The extension of the one year
22 period shall not exceed 30 days from the expiration date of a commission-certified basic law enforcement training
23 program.

24
25 *History Note: Authority G.S. 17E-4; 17E-7;*

26 *Eff. January 1, 1989;*

27 *Amended Eff. January 1, 2006; January 1, 1996; January 1, 1994; January 1, 1991;*

28 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*
29 *2018;*

30 *Amended Eff. [July 1, 2023;] July 1, 2024; June 1, 2019.*

Burgos, Alexander N

Subject: FW: [External] Rules clarification

From: Bowman, Melissa <mbowman@NCDOJ.GOV>

Sent: Thursday, August 10, 2023 8:55 AM

To: Peaslee, William W <bill.peaslee@oah.nc.gov>

Cc: Squires, Richard N <rsquires@ncdoj.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>

Subject: RE: [External] Rules clarification

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Good morning,

Thank you for agreeing to speak with us this afternoon. Our intention was just to clarify that we were fully addressing your concerns within the proper framework. Our office will submit our proposed response to all questions posed regarding this rule later today via normal channels.

Thank you,
Melissa Bowman



Melissa Bowman

CJ Specialist/Investigator III

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Burgos, Alexander N

Subject: FW: [External] Rules clarification

From: Peaslee, William W <bill.peaslee@oah.nc.gov>

Sent: Wednesday, August 9, 2023 4:50 PM

To: Bowman, Melissa M <mbowman@ncdoj.gov>

Cc: Squires, Richard N <rsquires@ncdoj.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>

Subject: RE: [External] Rules clarification

Good afternoon

I am available for a telephone conversation tomorrow afternoon. However any explanations provided in the conversation will not resolve any of the ambiguities raised by the request for changes and my subsequent email unless they are addressed in changes to the rule.

It appears to me that the time remaining would be better spent on changing the language in the rule to resolve any ambiguities if that can be done without creating a substantial change pursuant to G.S. 150B-21.2(g). That having been said, I am available at 2:00 tomorrow afternoon.

After looking at the rule further, I have some additional ambiguities which need to be addressed.

Line 8: To which "powers of a duty sheriff," other than arrest, is the Commission referring? This is unclear and ambiguous.

Line 13: What is the Commission's authority to regulate "any person..."? As written, any person who has taken the training program but has not been appointed and certified within one year of course completion "shall" complete a subsequent course. Surely this doesn't apply to "any person". It appears that the Commission is trying to establish a prerequisite to attaining an undefined status or perhaps a waiver of some other rule.

Line 16: Within what 12-month probationary period? The only 12-month probationary period in Chapter 10B is in 12 NCAC 10B .0603. Is that the period to which the Commission refers?

Thank you.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

From: Bowman, Melissa <mbowman@NCDOJ.GOV>
Sent: Wednesday, August 9, 2023 2:57 PM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: Squires, Richard N <rsquires@ncdoj.gov>
Subject: [External] Rules clarification

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.

Good afternoon,

Are you available for a telephone conversation this afternoon or tomorrow afternoon to discuss your concerns with 12 NCAC 10B .0503?

Thank you,
Melissa Bowman



Melissa Bowman
CJ Specialist/Investigator III
Sheriffs' Standards Division
Phone: 919-779-8213
Fax: 919-662-4515
mbowman@ncdoj.gov
1700 Tryon Park Drive, Raleigh, NC 27610
Post Office Box 629, Raleigh, NC 27602-0629
www.ncdoj.gov

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

Burgos, Alexander N

Subject: FW: [External] Response to Request for Changes (12 NCAC 10B .0402-.0404, .0607, .0702, .0803, .0901, .0910)

Attachments: Partial Response to RRC.docx; 12 NCAC 10B .0402.docx; 12 NCAC 10B .0403.docx; 12 NCAC 10B .0404.docx; 12 NCAC 10B .0607 DOCC min TR req.docx; 12 NCAC 10B .0702 Admin of Schools.docx; 12 NCAC 10B .0803 DOCC.docx; 12 NCAC 10B .0901 Instructors BLET.docx; 12 NCAC 10B .0910 Guest Participants.docx; Form 0400 for 12 NCAC 10B .0714.pdf

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Wednesday, August 9, 2023 3:25 PM
To: Bowman, Melissa M <mbowman@ncdoj.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; McGhee, Dana <dana.McGhee@oah.nc.gov>
Subject: FW: [External] Response to Request for Changes (12 NCAC 10B .0402-.0404, .0607, .0702, .0803, .0901, .0910)

Good afternoon:

It is my present intention to recommend RRC approval of the attached rules as changed.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

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Burgos, Alexander N

From: Peaslee, William W
Sent: Wednesday, August 9, 2023 2:27 PM
To: Bowman, Melissa M
Cc: Burgos, Alexander N
Subject: 12 NCAC 10B .0503

Good afternoon:

Paragraph (b) requires any person who has completed a “basic law enforcement training program” (emphasis added) but has not been both 1) appointed and 2) certified, within one year of course completion to do two things: 1) complete a “basic recruit training program” (emphasis added) and 2) pass the State Comprehensive Examination. These two things must be done within the 12-month probationary period pursuant to the rule.

Lines 13 and 15: Is the “basic law enforcement” training program in Line 13 and the “basic recruit” training program in Line 15 the same thing? If so, use the same language when referring to the training program. If different, add citations to the rules establishing the different training programs. “Basic recruit” is only used in one other rule(12 NCAC 10B .0501) and there it is referred to as “basic recruit law enforcement training”.

The rule goes on to state that Director “shall waive this requirement” “unless the Director determines that a delay in applying for certification was due to negligence” (emphasis added). It seems clear to me that an intentional delay triggers a waiver of “this requirement”. I understand from your response that the Commission does not intent that result, but the language is clear to me. I have an open mind to the question of whether a rule that has an exception that swallows the rule meets the criteria of G.S. 15B-21.9(a).

Line 16: “This requirement” is unclear. Is the entire requirement waivable? I think the Commission means the time requirement of 12 months is waivable, but this is unclear.

Line 17: This line refers to “the one year time period as set forth in Paragraph (a).” Paragraph (a), as amended, does not refer to a one-year time period.

Line 17: This line requires the Director to “accept a course”. What does the Commission mean by “a course”? Is that the same as the basic law enforcement training program, or the basic recruit training program, or the basic recruit law enforcement training”? Does the course include passing the State Comprehensive Examination?

Line 20: Here the Commission uses yet another new term “basic training program” which is not used in any other rule. What is a “basic training program”? Is the extension allowed after any basic training program or only after the subsequent basic recruit training program referenced on Line 15?

Please respond no later than 5:00 p.m. Friday August 11. Thank you.

As always if you have any questions, please do not hesitate to contact me.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939

Bill.Peaslee@oah.nc.gov

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

From: Rules, Oah
Sent: Wednesday, August 9, 2023 10:01 AM
To: Peaslee, William W; Burgos, Alexander N
Subject: FW: [External] Response to Request for Changes (12 NCAC 10B .0402-.0404, .0503, .0607, .0702, .0714, .0803, .0901, .0910)
Attachments: Partial Response to RRC.docx; 12 NCAC 10B .0402.docx; 12 NCAC 10B .0403.docx; 12 NCAC 10B .0404.docx; 12 NCAC 10B .0503.docx; 12 NCAC 10B .0607 DOCC min TR req.docx; 12 NCAC 10B .0702 Admin of Schools.docx; 12 NCAC 10B .0714 Pilot Authority.docx; 12 NCAC 10B .0803 DOCC.docx; 12 NCAC 10B .0901 Instructors BLET.docx; 12 NCAC 10B .0910 Guest Participants.docx; Form 0400 for 12 NCAC 10B .0714.pdf
Follow Up Flag: Follow up
Flag Status: Flagged

From: Bowman, Melissa <mbowman@NCDOJ.GOV>
Sent: Wednesday, August 9, 2023 9:56 AM
To: Rules, Oah <oah.rules@oah.nc.gov>
Subject: [External] Response to Request for Changes (12 NCAC 10B .0402-.0404, .0503, .0607, .0702, .0714, .0803, .0901, .0910)

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.

Good morning,

Please see the attached partial Response to Request for Changes. This response also includes the requested updated 0400 Submission for Permanent Rule for 12 NCAC 10B .0714. The response to the remaining rules is still under review.

Thank you,
Melissa Bowman



Melissa Bowman
CJ Specialist/Investigator III
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www.ncdoj.gov

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

AGENCY: Sheriffs' Education and Training Standards Commission

RULE CITATION: 12 NCAC 10B .0402

DEADLINE FOR RECEIPT: August 11, 2023

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

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

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

Line 4: Explain the Commission's authority to make this rule applicable to justice officers appointed prior to July 1, 1983. See G.S. 17E-7(a).

Response: Those officers appointed prior to July 1, 1983 would not be covered under this rule "as a condition of continued employment" because once they are granted General Certification as set out in 12 NCAC 10B .0404 their general certification is continuous from the date of issuance if they remain continuously employed or if they are reemployed within one year of separation from their previous agency as cited in 12 NCAC 10B .0404. 17E-7(a) also states that "all justice officers who are exempted from the required entry level standards by this subsection are subject to the requirements of subsections (b) and (c) of this section as well as the requirements of G.S. 17E-4(a) in order to retain certification." Finally, 12 NCAC 10B .0505(11) exempts these individuals from completing a commission-certified Basic Law Enforcement Training Course. Does this answer your question or do you recommend additional references to clarify?

Lines 7-8: "Basic Law Enforcement Training" is not a defined term. Either define it or add citation(s) to the rules. 12 NCAC 10B .0502?

Response: A citation to the rules about Basic Law Enforcement Training (12 NCAC 10B .0502 and 12 NCAC 09B .0205) has been added.

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

William W. Peaslee
Commission Counsel

Date submitted to agency: July 31, 2023

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

AGENCY: Sheriffs' Education and Training Standards Commission

RULE CITATION: 12 NCAC 10B .0403

DEADLINE FOR RECEIPT: August 11, 2023

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

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

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

Lines 4-5: "Basic Law Enforcement Training" is not a defined term. Either define it or add citation(s) to the rules. 12 NCAC 10B .0502?

Response: A citation to the rules about Basic Law Enforcement Training (12 NCAC 10B .0502 and 12 NCAC 09B .0205) has been added.

Line 5, 10, 12 and 13: The Commission requires the use of a "Report of Appointment (Form F-4)". There does not appear to be a rule that defines the "contents or substantive requirements" of the form as required by G.S. 150B-2(8a)(d).

Response: The "Report of Appointment (Form F-4)" is described in 12 NCAC 10B .2201.

Line 26: By "not authorized to carry a firearm" does the Commission mean in the performance of duty? Are they prohibited from carrying a firearm on duty?

Response: Yes, by "not authorized to carry a firearm" the Commission means they are not authorized to carry a firearm on duty. Historically, the regulated public understood this to be the case.

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

William W. Peaslee
Commission Counsel

Date submitted to agency: July 31, 2023

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

AGENCY: Sheriffs' Education and Training Standards Commission

RULE CITATION: 12 NCAC 10B .0404

DEADLINE FOR RECEIPT: August 11, 2023

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

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

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

Line 8: "Chapter" should be subchapter or section.

Response: This rule has been updated with this requested change.

Lines 15: Consider: "... as a justice officer within one year from the date of separation, and..."

Response: This rule has been updated with this requested change.

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

William W. Peaslee
Commission Counsel
Date submitted to agency: July 31, 2023

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

AGENCY: Sheriffs' Education and Training Standards Commission

RULE CITATION: 12 NCAC 10B .0503

DEADLINE FOR RECEIPT: August 11, 2023

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

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

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

Generally, to the Rule: The Rule is not formatted correctly in that the lines are not enumerated.

Response: Apologies for this oversight. This has been corrected.

Paragraph (a): Explain the Commission's authority to make this rule applicable to justice officers appointed prior to July 1, 1983. See G.S. 17E-7(a).

Response: The Commission is not applying this rule to those individuals as they are exempt from this rule as stated in 12 NCAC 10B .0505(11). Are you recommending adding a reference to that rule?

Paragraph (b): The criteria which the Director will use in granting the waiver is unclear and ambiguous.

Response: See response below to final question.

Paragraph (b): "State Comprehensive Examination" does not appear to be a define term. Either define it or make a citation to a rule which set forth the requirements of the examination. See G.S. 150B-19(6).

Response: A citation to the rule which sets forth the requirements of the examination (12 NCAC 09B .0406) has been added to the rule.

Paragraph (b): As written, the Director "shall waive the requirement" if the person intentionally delayed appointment and certification. Is that what the Commission intended? If not, please beware of any substantial change pursuant to GS 150B-21.2(g).

William W. Peaslee
Commission Counsel

Date submitted to agency: July 31, 2023

An agency may not adopt a rule to allow the agency, or its employees, to waive or modify a requirement unless a rule establishes specific guideline for the agency to follow in determining whether to waive a rule.

Response: No, that is not the Commission's intent. The rule as written says the waiver is possible for those who are not negligent. The Commission uses the common definition of negligence. The Barron's Law Dictionary defines negligence as "failure to exercise the degree of care which a person of ordinary prudence (a reasonable person) would exercise under the same circumstances." In addition, the final sentence of the paragraph advises that the extension shall not exceed 30 days. Therefore, the criteria for the Director to issue the waiver according to the rule would be that the person's delay in appointment was not due to negligence and did not exceed 30 days after the one year period expires.

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

William W. Peaslee
Commission Counsel

Date submitted to agency: July 31, 2023

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

AGENCY: Sheriffs' Education and Training Standards Commission

RULE CITATION: 12 NCAC 10B .0607

DEADLINE FOR RECEIPT: August 11, 2023

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

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

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

Line 10: What is the minimum degree of general attributes required?

Response: Rule .0605 explains that satisfactory completion of the course is achieved by completion of the required topics, passing the end of block tests and passing the state examination. This sets the standard for the minimum degree of general attributes, degree of knowledge, and degree of skill. The Commission's rules contain a definition for "Essential Job Functions" in 12 NCAC 10B .0103(8). Would it be helpful to reference that as well?

Line 10: What is the minimum degree of knowledge required?

Response: See above answer.

Line 10: What is the minimum degree of skill required?

Response: See above answer.

Line 10: Define or delete "inexperienced detention officer".

Response: A definition was added.

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

William W. Peaslee
Commission Counsel

Date submitted to agency: July 31, 2023

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

AGENCY: Sheriffs' Education and Training Standards Commission

RULE CITATION: 12 NCAC 10B .0702

DEADLINE FOR RECEIPT: August 11, 2023

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

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

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

Lines 8-9: It is unclear whether the Commission is exempting any certification courses from the Title 12, Subchapter 9B rules or only whether the rules are applicable but later amendments and editions are not automatically adopted. If the former, consider: "This rule is not applicable to any Detention Officer Certification Course or Telecommunicator Certification Course."

Response: Only the Detention Officer Certification Course and Telecommunicator Certification Course are exempt from Title 12, Subchapter 9B rules and your recommended statement has been added.

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

William W. Peaslee
Commission Counsel

Date submitted to agency: July 31, 2023

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

AGENCY: Sheriffs' Education and Training Standards Commission

RULE CITATION: 12 NCAC 10B .0714

DEADLINE FOR RECEIPT: August 11, 2023

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

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

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

Please correct the Submission For Permanent Rule form to show that this is an adoption and not an amendment.

Response: Apologies for the oversight. This has been corrected.

Line 1: "Amended" should be "adopted".

Response: This has been corrected.

Line 6: What are "pilot offerings"? It is unclear whether "pilot offerings" are subject to the rules governing other courses, whether they are certified or approved, and if so by what process.

Response: A definition of "Pilot Course" was added. We will begin the rulemaking process to add this definition to the definitions rule (12 NCAC 10B .0103).

Line 6-7: It is unclear what this sentence is designed to do. Why is it necessary? What constitutes a "new version of an existing curriculum"?

Response: This sentence is not necessary and it has been deleted.

Line 13: Strike "Amended".

Response: This has been corrected.

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

William W. Peaslee
Commission Counsel

Date submitted to agency: July 31, 2023

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

AGENCY: Sheriffs' Education and Training Standards Commission

RULE CITATION: 12 NCAC 10B .0803

DEADLINE FOR RECEIPT: August 11, 2023

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

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

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

Line 7: Strike "director".

Response: This has been updated.

Line 8: Identify the rule which sets forth the requirements of the Pre-Delivery Report of Training Course Presentation (Form F-7A). See G.S. 150B-2(8a)d.

Response: An addition to the Forms rule 12 NCAC 10B .2201 to include these forms is in process. In the interim, the requirements of the Form F-7A and Form F-7B have been added for clarification.

Line 11: Strike "director".

Response: This has been updated.

Line 13: Identify the rule which sets forth the requirements of the Post-Delivery Report of Training Course Presentation (Form F-7B). See G.S. 150B-2(8a)d.

Response: An addition to the Forms rule 12 NCAC 10B .2201 to include these forms is in process. In the interim, the requirements of the Form F-7A and Form F-7B have been added for clarification.

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

William W. Peaslee
Commission Counsel

Date submitted to agency: July 31, 2023

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

AGENCY: Sheriffs' Education and Training Standards Commission

RULE CITATION: 12 NCAC 10B .0901

DEADLINE FOR RECEIPT: August 11, 2023

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

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

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

Lines 8-9: It is unclear whether the Commission is exempting any certification courses from the Title 12, Subchapter 9B rules or only whether the rules are applicable but later amendments and editions are not automatically adopted. If the former, consider: "This rule is not applicable to any Detention Officer Certification Course or Telecommunicator Certification Course."

Response: Only the Detention Officer Certification Course and Telecommunicator Certification Course are exempt from Title 12, Subchapter 9B rules and your recommended statement has been added.

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

William W. Peaslee
Commission Counsel

Date submitted to agency: July 31, 2023

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

AGENCY: Sheriffs' Education and Training Standards Commission

RULE CITATION: 12 NCAC 10B .0910

DEADLINE FOR RECEIPT: August 11, 2023

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

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

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

Lines 4-5: Consider re-writing this rule. These lines are permissive. Rules do not grant permission (exceptions) in the absence of a restriction. That which is not prohibited is allowed. Consider: "Instructors certified pursuant to 12 NCAC 10B .0908 and .0909 shall be the primary presenter at each class session of every offering of any Detention Officer Certification Course. A guest participant in a class session shall only be used to complement the instructor, and the instructor shall have direct on-sight supervision of the guest participants."

Response: Your suggested language was utilized.

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

William W. Peaslee
Commission Counsel

Date submitted to agency: July 31, 2023

1 12 NCAC 10B .0402 is amended with changes as published in 37:02 NCR 176 as follows:

2
3 **12 NCAC 10B .0402 PROBATIONARY CERTIFICATION**

4 All justice officers, except those transferred or reinstated pursuant to Rule .0406 of this Section shall serve a
5 probationary certification period of one year; provided that the one year probationary period has not been extended
6 for cause pursuant to 12 NCAC 10B .0303(c); .0503(a); ~~or .0602(a)~~ .0602(a); or .1303(a). For certification as a deputy
7 sheriff the probationary period begins on the date the officer took the Oath of ~~Office~~ Office after completion of Basic
8 Law Enforcement Training ~~Training~~ Training as described in 12 NCAC 10B .0502 and 12 NCAC 09B .0205. For certification
9 as a detention officer or telecommunicator, the probationary period begins on the date the person was appointed.
10 ~~[appointed after the completion of the Detention Officer Certification Course or Telecommunicator Certification~~
11 ~~Course, as applicable.]~~

12
13 *History Note: Authority G.S. 17E-4; 17E-7;*

14 *Eff. January 1, 1989;*

15 *Amended Eff. ; January 1, 1996; January 1, 1994; January 1, 1991;*

16 *Temporary Amendment Eff. March 1, 1998;*

17 *Amended Eff. August 1, 1998;*

18 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*
19 *2018.*

20 *Amended Eff. [~~July 1, 2023~~] July 1, 2024.*

12 NCAC 10B .0403 is amended with changes as published in 37:02 NCR 176 as follows:

12 NCAC 10B .0403 PROBATIONARY CERTIFICATION REQUIREMENT

(a) For certification as a ~~justice officer~~, deputy sheriff, the applicant must successfully complete Basic Law Enforcement ~~Training~~ Training as described in 12 NCAC 10B .0502 and 12 NCAC 09B .0205, and a Report of Appointment ~~(Form F-4T)~~ (Form F-4) must be submitted to the Division. ~~Report of Appointment forms must be submitted to the Division by the sheriff's office no later than 10 days after the deputy sheriff has taken the Oath of Office, or the detention officer or telecommunicator has been appointed. The Division shall forward the justice officer's certification to the appointing agency.~~

(b) For certification as a detention officer, ~~the applicant must successfully complete the Detention Officer Certification Course, and~~ a Report of Appointment ~~(Form F-4T)~~ (Form F-4) must be submitted to the Division.

(c) For certification as a telecommunication officer, ~~the applicant must successfully complete the Telecommunicator Certification Course, and~~ a Report of Appointment (Form F-4T) must be submitted to the Division.

(d) Report of Appointment forms must be submitted to the Division by the employing agency no later than 10 days after the deputy sheriff has taken the Oath of Office, or the detention officer or the telecommunicator has been appointed.

(e) The Division shall forward the justice officer's certification to the appointing agency.

~~(b)(f)~~ No deputy sheriff or detention officer probationary certification shall be issued by the Division prior to the applicant meeting the conditions set forth in this Paragraph. As an additional requirement for probationary certification, the applicant shall meet the following requirements:

- (1) If the applicant for probationary certification is authorized to carry a firearm pursuant to the provisions of 12 NCAC 10B .2104, the employing agency shall submit evidence of satisfactory completion of the employing agency's in-service firearms training and requalification program pursuant to 12 NCAC 10B .2000 and .2100; or
- (2) If the applicant for probationary certification is not authorized to carry a firearm pursuant to the provisions of 12 NCAC 10B .2104, the employing agency shall notify the Division, in writing, that the applicant is not authorized to carry a firearm.

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

Eff. January 1, 1989;

Amended Eff. February 1, 1998, January 1, 1996; January 1, 1994; January 1, 1991;

Temporary Amendment Eff. March 1, 1998;

Amended Eff. August 1, 1998;

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

Amended Eff. [July 1, 2023] July 1, 2024.

1 12 NCAC 10B .0404 is amended with changes as published in 37:02 NCR 176 as follows:

2
3 **12 NCAC 10B .0404 GENERAL CERTIFICATION**

4 (a) The Commission shall grant an officer general certification if evidence is received by the Division that the officer
5 has:

- 6 (1) complied with all of the requirements of 12 NCAC 10B .0300; ~~and~~
7 (2) successfully completed the required ~~training within the probationary period.~~ period pursuant to Rule
8 .0402 of this [Chapter,] Subchapter; and
9 (3) detention officers and telecommunicators have completed the required training within the
10 probationary period.

11 (b) General certification is continuous from the date of issuance if:

- 12 (1) The certified officer remains continuously employed or appointed as an officer in good standing
13 with an agency and the certification has not been terminated for cause; or
14 (2) The certified officer, having separated in good standing from an agency, is reemployed or
15 reappointed as a justice officer within one year, year from the date of separation, and the certification
16 has not been terminated for cause.

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

19 *Eff. January 1, 1989;*

20 *Amended Eff. January 1, 1993;*

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

23 *Amended Eff. [July 1, 2023.] July, 1, 2024.*
24

1 12 NCAC 10B .0503 is amended with changes as published in 37:02 NCR 176-177 as follows:

2
3 **12 NCAC 10B .0503 TIME REQ/COMPLETION/BASIC LAW ENFORCEMENT TRAINING COURSE**

4 (a) Each deputy sheriff ~~shall have completed with passing scores the accredited basic training course as prescribed in~~
5 ~~12 NCAC 09B .0205 prior to obtaining probationary certification. holding temporary or probationary certification~~
6 ~~shall complete a Commission-certified basic training course pursuant to 12 NCAC 09B .0405, within one year from~~
7 ~~the date of his or her Oath of Office.~~ Any deputy sheriff who does not comply with this Rule or other training
8 provisions of this Chapter shall not exercise the powers of a deputy sheriff, including the power of arrest. ~~If, however,~~
9 ~~an officer has enrolled in a Commission-certified basic law enforcement training program that concludes later than~~
10 ~~the end of the officer's probationary period, the Commission may extend the probationary period for a period not to~~
11 ~~exceed 12 months. In determining whether to grant an extension, the Commission shall consider the circumstances~~
12 ~~that created the need for the extension.~~

13 (b) Any person who has completed a Commission-certified basic law enforcement training program, but has not been
14 duly appointed and certified in a sworn law enforcement position within one year of completion of the course, shall
15 complete a subsequent Commission-certified basic recruit training program and pass the State Comprehensive
16 Examination pursuant to 12 NCAC 09B .0406 within the 12 month probationary period. The Director shall waive this
17 requirement and accept a course that was completed outside of the one year time period as set forth in Paragraph (a)
18 of this Rule unless he or she determines that a delay in applying for certification was due to negligence on the part of
19 the applicant or employing agency. The extension of the one year period shall not exceed 30 days from the expiration
20 date of a commission-certified basic training program.

21
22 *History Note: Authority G.S. 17E-4; 17E-7;*

23 *Eff. January 1, 1989;*

24 *Amended Eff. January 1, 2006; January 1, 1996; January 1, 1994; January 1, 1991;*

25 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*
26 *2018;*

27 *Amended Eff. [July 1, 2023;] July 1, 2024; June 1, 2019.*
28
29

1 12 NCAC 10B .0607 is amended with changes as published in 37:02 NCR 182:

2
3 **12 NCAC 10B .0607 SATISFACTION OF MINIMUM TRAINING REQUIREMENTS**

4 In order to satisfy the minimum training requirements for certification as a detention officer, a trainee shall:

- 5 (1) achieve a score of 70 percent correct answers on the Commission-administered comprehensive
6 written examination;
- 7 (2) demonstrate successful completion of an accredited offering of ~~the any "Detention~~ Detention Officer
8 Certification ~~Course~~ Course as shown by the certification of the school director; and
- 9 (3) obtain the recommendation of the trainee's school director that the trainee possesses at least the
10 minimum degree of general attributes, knowledge, and skill to function as an inexperienced
11 detention officer as evidenced by successful course completion pursuant to rule .0606. An
12 inexperienced detention officer is an officer that has no prior experience performing the duties of a
13 detention officer as defined in 12 NCAC 10B .0103(13).

14
15 *History Note: Authority G.S. 17E-4; 17E-7;*

16 *Eff. January 1, 1989; June 21, 2022*

17 *Amended Eff. January 1, 1996; January 1, 1992;*

18 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*
19 *2018.*

20 *Amended Eff. [November 1, 2022]/November 1, 2023.*

1 12 NCAC 10B .0702 is amended with changes as published in 37:02 NCR 182:

2
3 **12 NCAC 10B .0702 ADMINISTRATION OF JUSTICE OFFICER SCHOOLS**

4 The rules covering the administration of Criminal Justice Schools and training programs or courses of instruction,
5 codified as Title 12, Subchapter 9B, Section .0200 of the North Carolina Administrative Code, effective and previously
6 adopted by the North Carolina Criminal Justice Education And Training Standards Commission are hereby
7 incorporated by reference and shall automatically include any later amendments and editions of the incorporated
8 material to apply to actions of the North Carolina Sheriffs' Education and Training Standards ~~Commission~~
9 ~~Commission.~~ ~~with the exception of the~~ ~~This rule is not applicable to any~~ Detention Officer Certification Course ~~and~~
10 ~~the or~~ Telecommunicator Certification Course. Copies of the incorporated materials may be obtained at no cost from
11 the Criminal Justice Standards Division, North Carolina Department of Justice, 1700 Tryon Park Drive, Post Office
12 Drawer 149, Raleigh, North Carolina 27692, or at [http://ncdoj.gov/About-DOJ/Law-Enforcement-Training-and-](http://ncdoj.gov/About-DOJ/Law-Enforcement-Training-and-Standards/Criminal-Justice-Education-and-Training-Standards/Training-Certification-Programs.aspx)
13 [Standards/Criminal-Justice-Education-and-Training-Standards/Training-Certification-Programs.aspx](http://ncdoj.gov/About-DOJ/Law-Enforcement-Training-and-Standards/Criminal-Justice-Education-and-Training-Standards/Training-Certification-Programs.aspx).
14

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

16 *Eff. January 1, 1989;*

17 *Amended Eff. January 1, 1996; January 1, 1990;*

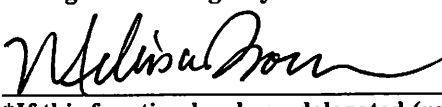
18 *Temporary Amendment Eff. March 1, 1998;*

19 *Amended Eff. November 1, 2013; August 1, 1998;*

20 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*
21 *2018.*

22 *Amended Eff. ~~November 1, 2022~~ November 1, 2023.*
23

SUBMISSION FOR PERMANENT RULE

1. Rule-Making Agency: North Carolina Sheriffs' Education and Training Standards Commission	
2. Rule citation & name (name not required for repeal): 12 NCAC 10B .0714 Pilot Course Presentation/Participation	
3. Action: <input checked="" type="checkbox"/> ADOPTION <input type="checkbox"/> AMENDMENT <input type="checkbox"/> REPEAL <input type="checkbox"/> READOPTION <input type="checkbox"/> REPEAL through READOPTION	
4. Rule exempt from RRC review? <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No	5. Rule automatically subject to legislative review? <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No
6. Notice for Proposed Rule: <input checked="" type="checkbox"/> Notice Required Notice of Text published on: 7/15/2022 Link to Agency notice: https://ncdoj.gov/law-enforcement-training/sheriffs/all-certification-forms-publications/proposed-rule-amendments/ Hearing on: 8/2/2022 Adoption by Agency on: 06/16/2023 <input type="checkbox"/> Notice not required under G.S.: Adoption by Agency on:	
7. Rule establishes or increases a fee? (See G.S. 12-3.1) <input type="checkbox"/> Yes Agency submitted request for consultation on: Consultation not required. Cite authority: <input checked="" type="checkbox"/> No	8. Fiscal impact. Check all that apply. <input type="checkbox"/> This Rule was part of a combined analysis. <input type="checkbox"/> State funds affected <input type="checkbox"/> Local funds affected <input type="checkbox"/> Substantial economic impact (≥\$1,000,000) <input type="checkbox"/> Approved by OSBM <input checked="" type="checkbox"/> No fiscal note required
<div style="text-align: center;">9. REASON FOR ACTION</div> <div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> 9A. What prompted this action? Check all that apply: <input checked="" type="checkbox"/> Agency <input type="checkbox"/> Court order / cite: <input type="checkbox"/> Federal statute / cite: <input type="checkbox"/> Federal regulation / cite: </div> <div style="width: 48%;"> <input type="checkbox"/> Legislation enacted by the General Assembly Cite Session Law: <input type="checkbox"/> Petition for rule-making <input type="checkbox"/> Other: </div> </div> 9B. Explain: The Commission requested a stand alone rule to allow for pilot course offerings.	
10. Rulemaking Coordinator: Melissa Bowman Phone: 919-779-8213 E-Mail: mbowman@ncdoj.gov Additional agency contact, if any: Sirena Jones Phone: 919-779-8213 E-Mail: scjones@ncdoj.gov	11. Signature of Agency Head* or Rule-making Coordinator:  <hr style="border: 0; border-top: 1px solid black; margin: 5px 0;"/> *If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form. Typed Name: Melissa Bowman Title:
RRC AND OAH USE ONLY	
Action taken: <input type="checkbox"/> RRC extended period of review: <input type="checkbox"/> RRC determined substantial changes: <input type="checkbox"/> Withdrawn by agency <input type="checkbox"/> Subject to Legislative Review <input type="checkbox"/> Other:	

12 NCAC 10B .0714 is ~~amended~~ **adopted** with changes as published in 37:02 NCR 187:

12 NCAC 10B .0714 PILOT COURSE PRESENTATION/PARTICIPATION

(a) When the Commission approves the development of a new course or the development of a new version of an existing course, the Commission shall designate the developer, and such designation shall be deemed by the Commission as approval for the developer to conduct ~~[pilot]~~ offerings of ~~[the]~~ a pilot course. ~~[A minor or major revision to existing curriculum does not constitute a new version of an existing curriculum.]~~

~~(b)~~ **“(b) ‘Pilot Course’ means those courses approved by the Commission to develop new training course curricula.”**

~~(b)~~ **(c)** Individuals who complete such a pilot course offering shall not be required by other rules of this Subchapter to complete additional training for that specific certification program. Such pilot training courses shall be recognized for purposes of certification or recertification.

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

~~[Amended]~~ *Eff. [November 1, 2022] November 1, 2023.*

12 NCAC 10B .0803 is amended with changes as published in 37:02 NCR 187-188:

**12 NCAC 10B .0803 REPORTS/DETENTION OFFICER CERT COURSE PRESENTATION/
COMPLETION**

(a) Each presentation of ~~the~~ any Detention Officer Certification Course shall be reported to the Commission as follows:

- (1) After acquiring accreditation for the course and before commencing each delivery of the course, the school **director** shall, no less than 30 days prior to the scheduled delivery, notify the Division of the school's intent to offer the training course by submitting a Pre-Delivery Report of Training Course Presentation (Form F-7A); and
- (2) Upon completing delivery of the accredited course, and not more than ten days after receiving from the Commission's representative the Report of Examination Scores, the school **director** shall notify the Division regarding the progress and achievement of each enrolled trainee by submitting a Post-Delivery Report of Training Course Presentation (Form F-7B). ~~This report shall also include each trainee's reading grade level as determined by testing required in 12 NCAC 10B .0601(c).~~

(b) Forms:

- (1) Form F-7A and F-7A-T, Pre-Delivery Report of Training Course Presentation, is completed by the institution or agency delivering Detention Officer and Telecommunicator Training Courses and consists of information on the course delivery location, school director, class schedule, anticipated date of the State Comprehensive Exam, and any planned instructional hours exceeding the minimum requirements. Form F-7A is utilized for Detention Officer courses and Form F-7A-T is utilized for Telecommunicator courses.
- (2) Form F-7B and F-7B-T, Post-Delivery Report of Training Course Presentation, is completed by the institution or agency delivering Detention Officer and Telecommunicator Training Courses and consists of information on any substitutions of instructors as originally reported on the Pre-Delivery Report, any trainees who were not recommended for the state exam due to withdrawal or deficiencies, and the students who participated in and completed the course. Form F-7B is utilized for Detention Officer courses and Form F-7B-T is utilized for Telecommunicator courses.

*History Note: Authority G.S. 17E-4; 17E-7;
Eff. January 1, 1989;
Amended Eff. January 1, 1996; January 1, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.
Italicized amendments have previously been published and are effective January 1, 2023.
Amended Eff. November 1, 2022/November 1, 2023.*

1 12 NCAC 10B .0901 is amended with changes as published in 37:02 NCR 188:

2
3 **SECTION .0900- MINIMUM STANDARDS FOR JUSTICE OFFICER INSTRUCTORS**
4

5 **12 NCAC 10B .0901 CERT/INSTRUCTORS/BASIC LAW ENFORCEMENT TRAINING COURSE**

6 The rules covering the certification of instructors, codified as Title 12, Subchapter 9B, Section .0300 of the North
7 Carolina Administrative Code, and adopted by the North Carolina Criminal Justice Education and Training Standards
8 Commission, are hereby incorporated by reference, and shall automatically include any later amendments and editions
9 of the referenced materials, to apply to actions of the North Carolina Sheriffs' Education and Training Standards
10 ~~Commission~~ Commission. ~~with the exception of instructors for the~~ This rule is not applicable to any Detention Officer
11 Certification Course ~~and or~~ Telecommunicator Certification Course. Copies of the publication may be obtained from
12 the Office of Administrative Hearings, Rules Division web-site <http://www.ncoah.com/rules>.
13

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

15 *Eff. January 1, 1989;*

16 *Amended Eff. January 1, 2013; January 1, 1996; January 1, 1994; June 1, 1992; January 1, 1992;*

17 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*
18 *2018.*

19 *Amended Eff. ~~November 1, 2022~~ November 1, 2023.*

1 12 NCAC 10B .0910 is amended with changes as published in 37:02 NCR 188:

2
3 **12 NCAC 10B .0910 USE OF GUEST PARTICIPANTS**

4 ~~The use of guest participants in a delivery of the any Detention Officer Certification Course is permissible with the~~
5 ~~expection of those topic areas requiring instructors certified pursuant to 12 NCAC 10B .0908 and .0909. Such guest~~
6 ~~participants are subject to the direct on-site supervision of a commission certified instructor and must be authorized~~
7 ~~by the school director. A guest participant shall only be used to complement the primary certified instructor of the~~
8 ~~topic area and shall in no way replace the primary instructor.~~ Instructors certified pursuant to 12 NCAC 10B .0908
9 and .0909 shall be the primary presenter at each class session of every offering of any Detention Officer Certification
10 Course. A guest participant in a class session shall only be used to complement the instructor, and the instructor shall
11 have direct on-site supervision of the guest participants.

12
13 *History Note: Authority G.S. 17E-4;*

14 *Eff. January 1, 1992;*

15 *Amended Eff. August 1, 1998; January 1, 1996;*

16 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*
17 *2018.*

18 *Amended Eff. ~~November 1, 2022~~ November 1, 2023.*

Burgos, Alexander N

From: Peaslee, William W
Sent: Tuesday, August 8, 2023 11:26 AM
To: Bowman, Melissa M
Cc: Burgos, Alexander N
Subject: SETSC Rules

Good morning.

Just a friendly reminder that if you have any revised rules in response to the Request for Changes, you do not have to send them all at once. Any that you have completed can be sent in. That has the added benefit of being able to make any final adjustments.

As always, if you have any questions or concerns, please do not hesitate to contact me.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

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

From: Peaslee, William W
Sent: Monday, July 31, 2023 11:12 AM
To: Bowman, Melissa M
Cc: Burgos, Alexander N
Subject: Sheriffs' Education and Training Standards Comm rules
Attachments: 08.2023 - SHETS Request for Changes.docx

Good morning,

I am the attorney assigned to review the Sheriffs' Education and Training Commission rules to be reviewed by the Rules Review Commission at its August 17, 2023 meeting.

Attached please find a request for changes to those rules. Please respond no later than August 11, 2023.

As always, if you have any questions or concerns, please do not hesitate to contact me. Email communication is strongly encouraged by the Office of Administrative Hearing in the interests of transparency.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

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

From: Peaslee, William W
Sent: Friday, July 28, 2023 11:45 AM
To: Bowman, Melissa M
Cc: Burgos, Alexander N
Subject: 12 NCAC 10B .0704

Good morning,

The above captioned rule was sent to the Rules Review Committee for review at its August 2023 meeting. While the cover sheet to the rule indicates, correctly, that it is an "adoption," the rule itself states that it is an amendment. (See Lines 1 of page 1, and line 24 of page 4).

Further the entire rule is underlined. For an adoption, only the language which has been modified from the proposed rule (the one that was published) should be underlined. Has the agency changed all of this language from the proposed rule as indicated on the submitted rule?

Please re-submit the rule with the necessary corrections as soon as possible underlining only that language which was changed for the proposed rule.

Thank you.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
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(984) 236-1939
Bill.Peaslee@oah.nc.gov

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