

## Burgos, Alexander N

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**Subject:** FW: [External] RE: 12 NCAC 10B .0713

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**From:** Jones, Sirena <[Scjones@ncdoj.gov](mailto:Scjones@ncdoj.gov)>  
**Sent:** Monday, December 12, 2022 5:16 PM  
**To:** Peaslee, William W <[bill.peaslee@oah.nc.gov](mailto:bill.peaslee@oah.nc.gov)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>  
**Subject:** RE: [External] RE: 12 NCAC 10B .0713

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Thanks for your response.

Have a good evening.

Sirena

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**From:** Peaslee, William W <[bill.peaslee@oah.nc.gov](mailto:bill.peaslee@oah.nc.gov)>  
**Sent:** Monday, December 12, 2022 5:14 PM  
**To:** Jones, Sirena <[Scjones@ncdoj.gov](mailto:Scjones@ncdoj.gov)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>  
**Subject:** RE: [External] RE: 12 NCAC 10B .0713

Thank you for your email.

It is my intention to recommend the RRC approve the rule as amended. With your consent I will file this version for 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](mailto:Bill.Peaslee@oah.nc.gov)

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**From:** Jones, Sirena <[Scjones@ncdoj.gov](mailto:Scjones@ncdoj.gov)>  
**Sent:** Monday, December 12, 2022 4:48 PM  
**To:** Peaslee, William W <[bill.peaslee@oah.nc.gov](mailto:bill.peaslee@oah.nc.gov)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>  
**Subject:** RE: [External] RE: 12 NCAC 10B .0713

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I understand.

## **Burgos, Alexander N**

---

**Subject:** FW: [External] RE: 12 NCAC 10B .0713

---

**From:** Peaslee, William W <bill.peaslee@oah.nc.gov>  
**Sent:** Monday, December 12, 2022 2:37 PM  
**To:** Jones, Sirena C <scjones@ncdoj.gov>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** RE: [External] RE: 12 NCAC 10B .0713

Thank you for your email.

Regarding Paragraph (h), there is no prohibition against individuals charged but not convicted. Accordingly, the permissive Paragraph (h) is unnecessary. Pursuant to Paragraph (g), only those convicted are prohibited.

**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](mailto:Bill.Peaslee@oah.nc.gov)

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## Burgos, Alexander N

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**Subject:** FW: [External] RE: 12 NCAC 10B .0713  
**Attachments:** 12 ncac 10B .0713.docx

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**From:** Jones, Sirena <Scjones@ncdoj.gov>  
**Sent:** Monday, December 12, 2022 12:24 PM  
**To:** Peaslee, William W <bill.peaslee@oah.nc.gov>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Bowman, Melissa M <mbowman@ncdoj.gov>  
**Subject:** RE: [External] RE: 12 NCAC 10B .0713

**CAUTION:** External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to [Report Spam](#).

Good afternoon.

I believe the attachment covers the suggested changes. If not, please let me know and we can discuss it this afternoon.

Thanks

Sirena

1 12 NCAC 10B .0713 is amended with changes as published in Volume 37, Issue 2 , pages 186-187 of the North  
2 Carolina public register as follows:

3

4 12 NCAC 10B .0713 ADMISSION OF TRAINEES

5 (a) The school ~~director~~ shall not admit any individual as a trainee in any commission-certified basic training course  
6 who is not a citizen of the United States.

7 (b) The school shall not admit any individual younger than ~~21~~ 20 years of age as a trainee in ~~the any~~ Detention Officer  
8 Certification Course and shall not admit any individual younger than 18 years of age as a trainee in the  
9 Telecommunicator Certification Course without the prior written approval of the Director of the Standards Division.  
10 The Director shall approve those individuals who will turn ~~21~~ 20 years of age prior to the end of ~~the any~~ Detention  
11 Officer Certification Course and, those individuals who will turn 18 years of age prior to the end of the  
12 Telecommunicator Certification Course.

13 (c) The school shall not admit any individual who has not provided ~~the~~ documentation required by 12 NCAC 10B  
14 .0302 to demonstrate that he or she meets the high school educational requirement set out in 12 NCAC 10B .0302.

15 (d) The school shall give priority admission in commission-certified basic training courses to individuals holding full-  
16 time employment with criminal justice agencies.

17 ~~(e) The school shall administer the reading component of a standardized test it chooses in its discretion so long as it~~  
18 ~~reports a grade level for each trainee participating in either the Telecommunicator or Detention Officer Certification~~  
19 ~~Course. The specific test instrument shall be determined by the school director and shall be administered within the~~  
20 ~~first week of the Course. The grade level results for each trainee shall be submitted to the Commission on each trainee's~~  
21 ~~Report of Student Course Completion.~~

22 ~~(e)~~ (c) The school shall not admit any individual as a trainee in a presentation of ~~the any~~ Detention Officer Certification  
23 Course or the Telecommunicator Certification Course unless the individual has provided to the School ~~Director~~ a  
24 Medical Examination Report Form (F-2) and the Medical History Statement Form (F-1) in compliance with 12 NCAC  
25 10B .0304. The F-1 is completed by applicants and shall contain questions concerning biographical information,  
26 current medications, allergies, and past medical history, serious illnesses and medical conditions, hospitalizations,  
27 immunizations, and occupational history. The F-2 form is completed by a medical examiner and shall contain an  
28 applicant's biographical information, vision, hearing, cardiovascular and circulator health, urinalysis, TB skin test,  
29 and other medical conditions relevant to the applicant's physical fitness to perform the duties of a justice officer. Form  
30 F-2 also contains the examining medical professional's recommendation and concerns as to an applicant's physical  
31 fitness to perform the duties of a justice officer. The Medical Examination Report Form (F-2) and the Medical History  
32 Statement Form (F-1) required by the North Carolina Criminal Justice Education and Training Standards Commission  
33 shall be recognized by the Commission for the purpose of complying with this Rule.

34 ~~(e)~~ (f) The school shall not admit any individual trainee in commission-certified basic training courses unless the  
35 individual has provided the School ~~Director~~ a certified criminal record check for local and state records where the  
36 trainee has resided within the past 10 years and where the trainee attended high school. The record check shall be from  
37 the Clerk of Court, a law enforcement agency within the jurisdiction, or other governmental entity that maintains or

1 ~~has access to criminal records for the jurisdiction. The record shall be certified by the entity providing the record with~~  
2 ~~either a raised seal or other visible verification that the document is an authentic copy.~~ An Administrative Office of  
3 the Courts criminal record check or a comparable out-of-state criminal record check shall satisfy this requirement. If  
4 an individual trainee has received a probationary certificate from the Commission at the time of enrollment, this  
5 records check requirement shall be waived.

6 ~~(h)~~ (g) The school shall not admit any individual as a trainee in commission-certified basic training courses who has  
7 been convicted of the following:

- 8 (1) a felony;
- 9 (2) a crime for which the punishment could have been imprisonment for more than two years;
- 10 (3) a crime or unlawful act defined as a "Class B Misdemeanor" within the five year period prior to the  
11 date of appointment;
- 12 (4) four or more crimes or unlawful acts as defined as "Class B Misdemeanors" regardless of the date  
13 of conviction;
- 14 (5) four or more crimes or unlawful acts defined as "Class A Misdemeanors" except the trainee may be  
15 enrolled if the last conviction occurred more than two years prior to the date of enrollment; or
- 16 (6) ~~a~~ any combination of four or more "Class A Misdemeanors" or "Class B Misdemeanors" regardless  
17 of the date of conviction.

18 ~~(i)~~ (h) Individuals charged with crimes specified in ~~this~~ Paragraph (g) that were dismissed or the person was found  
19 not guilty may be admitted into the commission-certified basic training ~~courses, courses, but completion will not~~  
20 ~~ensure that certification as a justice officer through the Commission will be issued.~~

21 (i) Pursuant to 12 NCAC 09B .0203, Every every individual who is admitted as a trainee in a presentation of the  
22 Commission-certified Basic Law Enforcement Training Course shall notify the School Director of all criminal  
23 offenses that the trainee is arrested for, charged with, pleads no contest to, pleads guilty to, or is found guilty of, and  
24 shall notify the School Director of all Domestic Violence Orders (G.S. 50B) pursuant to G.S. Chapter 50B and Civil  
25 No Contact Orders (50C) pursuant to G.S. Chapter 50C, that are issued by a judicial official official, after a hearing  
26 that provide an opportunity for both parties to be present, present.

27 (j) Notification shall including include all criminal offenses except minor traffic offenses. A minor traffic offense is  
28 defined for purposes of this Paragraph as any offense under G.S. Chapter 20 or similar laws of other jurisdictions  
29 jurisdictions, except those Chapter 20 offenses published in the Class B Misdemeanor Manual Manual as referenced  
30 in 12 NCAC 10B. 0103. Other traffic offenses under laws of other jurisdictions that shall be reported to the School  
31 Director include driving All driving while impaired impaired, driving under the influence, if the maximum allowable  
32 punishment is for a term of more than six months but not more than two years and driving while license permanently  
33 revoked or permanently suspended. suspended offenses shall also be reported to the school.

34 (k) The notifications required under this Paragraph (i) shall be in writing and shall specify the nature of the offense,  
35 the court in which the case was handled, where the case was initiated and the court where the case was or will be heard  
36 or disposed of if it is a different court, the date of the arrest or criminal charge, the date of issuance of the Domestic  
37 Violence Order (G.S. 50B) or Civil No Contact Order Order, (G.S. 50C), and the final disposition and the date thereof.

1 The notifications required under ~~this~~ Paragraph (i) shall be received by the School Director within 30 days of the date  
2 the case was disposed of in court. The requirements of this Paragraph shall apply at all times during which the trainee  
3 is enrolled in a Basic Law Enforcement Training Course. The requirements of this Paragraph shall be in addition to  
4 the notifications required under 12 NCAC 10B .0301 and 12 NCAC ~~09B .0101(8)~~, ~~09B .0101~~.

5

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

7 *Eff. April 1, 2001;*

8 *Amended Eff. January 1, 2018; January 1, 2013; January 1, 2007; January 1, 2005;*

9 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*  
10 *2018;*

11 *Italicized Amendments have previously been published and are effective January 1, 2023.*

12 *Amended Eff. January 1, 2023.*

## Burgos, Alexander N

---

**Subject:** FW: [External] RE: 12 NCAC 10B .0713

---

**From:** Peaslee, William W <bill.peaslee@oah.nc.gov>  
**Sent:** Friday, December 9, 2022 3:41 PM  
**To:** Jones, Sirena C <scjones@ncdoj.gov>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** RE: [External] RE: 12 NCAC 10B .0713

On Line 18, (h): "this Paragraph" should be "Paragraph (g)" I believe. Perhaps "Rule".

On Lines 18-20, (h): This Paragraph appears to be informational and does not meet the definition of a rule.

Line 34, (l): "this Paragraph" should be "Paragraph (i)" I believe. Perhaps "Rule".

Line 1, (l): "this Paragraph" should be "Paragraph (i)" I believe. Perhaps "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](mailto:Bill.Peaslee@oah.nc.gov)

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**From:** Jones, Sirena <[Scjones@ncdoj.gov](mailto:Scjones@ncdoj.gov)>  
**Sent:** Friday, December 9, 2022 2:37 PM  
**To:** Peaslee, William W <[bill.peaslee@oah.nc.gov](mailto:bill.peaslee@oah.nc.gov)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>  
**Subject:** [External] RE: 12 NCAC 10B .0713

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Good afternoon.

I am submitting 12 NCAC 10B .0713 for the Commission's review at the next meeting on December 15<sup>th</sup>.

Thanks





**Sirena Jones**

Deputy Director

Sheriffs' Standards Division

Phone: 919-779-8213

Fax: 919-662-4515

[scjones@ncdoj.gov](mailto:scjones@ncdoj.gov)

1700 Tryon Park Drive, Raleigh, NC 27610

Post Office Box 629, Raleigh, NC 27602-0629

[www.ncdoj.gov](http://www.ncdoj.gov)

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## 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.

The imposition of a question implies that the rule as written is unclear or there is some ambiguity. If the request 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 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](mailto:oah.rules@oah.nc.gov). The electronic copy must be saved as the official rule name (XX NCAC XXXX).
2. For rules longer than one page, insert a page number.
3. Use line numbers; if the rule spans more than one page, have the line numbers reset at one for each page.
4. Do not use track changes. Make all changes using manual strikethroughs, underlines and highlighting.
5. You cannot change just one part of a word. For example:
  - Wrong: "~~a~~Association"
  - Right: "~~association~~ Association"
6. Treat punctuation as part of a word. For example:
  - Wrong: "day, ~~;~~ and"
  - Right: "~~day,~~ day, and"
7. Formatting instructions and examples may be found at:  
[www.ncoah.com/rules/examples.html](http://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:

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

AGENCY: North Carolina Sheriffs' Education and Training Standards Commission

RULE CITATION: 12 NCAC 10B .0713

**DEADLINE FOR RECEIPT:**

***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:

*Page 1, Line 10, (b): Change "Director" to "School" to be consistent.*

***Response: This section is referring to the Director of the Standards Division as defined in 10B .013(4). The context of the previous sentence makes this clear.***

*Page 1, Line 13 (c): What documentation is required? If there is something specific required, it should be plainly stated.*

***Response: Rule .0302 sets the specific educational standard for high school or the equivalent and the documentation requirements. The language has been modified to clarify that the documentation can be found there.***

*Page 1, Line 17 (e): To what "reading component" is the Commission referring? I brief review of the code does not appear to require a "reading component".*

***Response: The rule was published with strikethroughs for section (e). The Commission determined that the information was for statistical purposes and this data is no longer needed.***

*Page 1, Lines 17-21 (e): Why was this filed with a highlight?*

***Response: The rule was published with strikethroughs for section (e). The Commission determined that the information was for statistical purposes and this data is no longer needed.***

*Page 1 and 2: The rule submitted appears to amend the sub-sections beginning with (f) when this do not appear to be a change from the existing rule in the code. This will need to be changed. See the previous response.*

*Page 1, Lines 24 & 25, (f): Reference is made to two forms; however, neither the forms nor their substantive requirements appear in the code. Please see G.S. 150B-2(8a)d.*

William W. Peaslee  
Commission Counsel  
Date submitted to agency:

**Response:** *The forms contain a trainee’s medical information. These forms are referenced in 10B .0304. Information is now included concerning the content of the forms.*

Page 1, Line 29 (g): *Who certifies the “certified criminal record check”?*

**Response:** *Clarified to define a certified criminal record check. This is a well-known term within the criminal justice community and to the general public. This language was recently approved in .0408 at the 11/2022 meeting of the RRC.*

Page 2, Line 7 (h): *Should not “a combination” be “any combination”?* **Done**

Page 2, Lines 9-27 (i): *This sub-paragraph is wordy and confusing. Consider making it multiple sub-paragraphs and perhaps utilize a list format.* **Done**

Page 2, Lines 11-16 (i): *This sentence is confusing. Consider re-writing it or breaking it up into two sentences.* **Done**

Page 2, Line 14, 15, 17, 23 (i): *Please refer to the style guide for the correct citation of entire Chapters of the North Carolina General Statutes. Remove the parenthetical references to statutes and consider “pursuant to …”* **Done**

Page 2, Line 15 (i): *As written, “provide an opportunity for both parties to be present” refers to the domestic violence orders and no contact orders. This is ambiguous and confusing.*

**Response:** *The language clearly differentiates between ex parte protective orders and orders entered after a hearing. The language has been removed to be consistent with the reporting requirements in 12 NCAC 10B .0301(a)(13), which are required to mirror the Criminal Justice Commission Rules under SB 300.*

Page 2, Line 18 (i): *What is the “Class B Misdemeanor Manual”?*

**Response:** *Reference to 12 NCAC10B .0103 has been added.*

Page 2, Line 19 (i): *The use of the word “include” suggests that there are other offences which need to be reported. Are there no clear criteria which can be identified so that trainees know what offences create an obligation to report?*

**Response:** *The use of include is appropriate in this context. There are many other things, such as 50B and 50C orders which require notification. This provision specifies that all criminal offenses except minor traffic offenses are included in the broader notification requirements. It then goes on to clarify the meaning of minor traffic offenses and how it applies to Driving While Impaired and Driving While License Suspended.*

Page 2, Line 22 (i): *Consider using alternative language to “handled”. Perhaps “adjudicated” or “the court with jurisdiction.”* **See Changes.**

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:

1 12 NCAC 10B .0713 is amended with changes as published in Volume 37, Issue 2 , pages 186-187 of the North  
2 Carolina public register as follows:

3

4 12 NCAC 10B .0713 ADMISSION OF TRAINEES

5 (a) The school ~~director~~ shall not admit any individual as a trainee in any commission-certified basic training course  
6 who is not a citizen of the United States.

7 (b) The school shall not admit any individual younger than ~~21~~ 20 years of age as a trainee in ~~the any~~ Detention Officer  
8 Certification Course and shall not admit any individual younger than 18 years of age as a trainee in the  
9 Telecommunicator Certification Course without the prior written approval of the Director of the Standards Division.  
10 The Director shall approve those individuals who will turn ~~21~~ 20 years of age prior to the end of ~~the any~~ Detention  
11 Officer Certification Course and, those individuals who will turn 18 years of age prior to the end of the  
12 Telecommunicator Certification Course.

13 (c) The school shall not admit any individual who has not provided ~~the~~ documentation required by 12 NCAC 10B  
14 .0302 to demonstrate that he or she meets the high school educational requirement set out in 12 NCAC 10B .0302.

15 (d) The school shall give priority admission in commission-certified basic training courses to individuals holding full-  
16 time employment with criminal justice agencies.

17 ~~(e) The school shall administer the reading component of a standardized test it chooses in its discretion so long as it~~  
18 ~~reports a grade level for each trainee participating in either the Telecommunicator or Detention Officer Certification~~  
19 ~~Course. The specific test instrument shall be determined by the school director and shall be administered within the~~  
20 ~~first week of the Course. The grade level results for each trainee shall be submitted to the Commission on each trainee's~~  
21 ~~Report of Student Course Completion.~~

22 ~~(e)~~ (c) The school shall not admit any individual as a trainee in a presentation of ~~the any~~ Detention Officer Certification  
23 Course or the Telecommunicator Certification Course unless the individual has provided to the School ~~Director~~ a  
24 Medical Examination Report Form (F-2) and the Medical History Statement Form (F-1) in compliance with 12 NCAC  
25 10B .0304. The F-1 is completed by applicants and shall contain questions concerning biographical information,  
26 current medications, allergies, and past medical history, serious illnesses and medical conditions, hospitalizations,  
27 immunizations, and occupational history. The F-2 form is completed by a medical examiner and shall contain an  
28 applicant's biographical information, vision, hearing, cardiovascular and circulator health, urinalysis, TB skin test,  
29 and other medical conditions relevant to the applicant's physical fitness to perform the duties of a justice officer. Form  
30 F-2 also contains the examining medical professional's recommendation and concerns as to an applicant's physical  
31 fitness to perform the duties of a justice officer. The Medical Examination Report Form (F-2) and the Medical History  
32 Statement Form (F-1) required by the North Carolina Criminal Justice Education and Training Standards Commission  
33 shall be recognized by the Commission for the purpose of complying with this Rule.

34 ~~(e)~~ (f) The school shall not admit any individual trainee in commission-certified basic training courses unless the  
35 individual has provided the School ~~Director~~ a certified criminal record check for local and state records where the  
36 trainee has resided within the past 10 years and where the trainee attended high school. The record check shall be from  
37 the Clerk of Court, a law enforcement agency within the jurisdiction, or other governmental entity that maintains or

1 ~~has access to criminal records for the jurisdiction. The record shall be certified by the entity providing the record with~~  
2 ~~either a raised seal or other visible verification that the document is an authentic copy.~~ An Administrative Office of  
3 the Courts criminal record check or a comparable out-of-state criminal record check shall satisfy this requirement. If  
4 an individual trainee has received a probationary certificate from the Commission at the time of enrollment, this  
5 records check requirement shall be waived.

6 ~~(h)~~ (g) The school shall not admit any individual as a trainee in commission-certified basic training courses who has  
7 been convicted of the following:

- 8 (1) a felony;
- 9 (2) a crime for which the punishment could have been imprisonment for more than two years;
- 10 (3) a crime or unlawful act defined as a "Class B Misdemeanor" within the five year period prior to the  
11 date of appointment;
- 12 (4) four or more crimes or unlawful acts as defined as "Class B Misdemeanors" regardless of the date  
13 of conviction;
- 14 (5) four or more crimes or unlawful acts defined as "Class A Misdemeanors" except the trainee may be  
15 enrolled if the last conviction occurred more than two years prior to the date of enrollment; or
- 16 (6) ~~a~~ any combination of four or more "Class A Misdemeanors" or "Class B Misdemeanors" regardless  
17 of the date of conviction.

18 ~~(i)~~ (h) Individuals charged with crimes specified in this Paragraph that were dismissed or the person was found not  
19 guilty may be admitted into the commission-certified basic training courses, but completion will not ensure that  
20 certification as a justice officer through the Commission will be issued.

21 ~~(i)~~ Pursuant to 12 NCAC 09B .0203. Every every individual who is admitted as a trainee in a presentation of the  
22 Commission-certified Basic Law Enforcement Training Course shall notify the School Director of all criminal  
23 offenses that the trainee is arrested for, charged with, pleads no contest to, pleads guilty to, or is found guilty of, and  
24 shall notify the School Director of all Domestic Violence Orders (G.S. 50B) pursuant to G.S. Chapter 50B and Civil  
25 No Contact Orders ~~(50C)~~ pursuant to G.S. Chapter 50C, that are issued by a judicial official ~~official.~~ ~~after a hearing~~  
26 ~~that provide an opportunity for both parties to be present, present.~~

27 ~~(k)~~ Notification shall ~~including~~ include all criminal offenses except minor traffic offenses. A minor traffic offense is  
28 defined for purposes of this Paragraph as any offense under G.S. Chapter 20 or similar laws of other jurisdictions  
29 jurisdictions, except those Chapter 20 offenses published in the Class B Misdemeanor Manual Manual as referenced  
30 in 12 NCAC 10B. 0103. Other traffic offenses under laws of other jurisdictions that shall be reported to the School  
31 Director include driving All driving while impaired impaired, driving under the influence, if the maximum allowable  
32 punishment is for a term of more than six months but not more than two years and driving while license permanently  
33 revoked or permanently suspended. ~~suspended offenses shall also be reported to the school.~~

34 (l) The notifications required under this Paragraph shall be in writing and shall specify the nature of the offense, the  
35 court in which the case was handled, where the case was initiated and the court where the case was or will be heard  
36 or disposed of if it is a different court, the date of the arrest or criminal charge, the date of issuance of the Domestic  
37 Violence Order (G.S. 50B) or Civil No Contact Order Order, (G.S. 50C), and the final disposition and the date thereof.

1 The notifications required under this Paragraph shall be received by the School **Director** within 30 days of the date the  
2 case was disposed of in court. The requirements of this Paragraph shall apply at all times during which the trainee is  
3 enrolled in a Basic Law Enforcement Training Course. The requirements of this Paragraph shall be in addition to the  
4 notifications required under 12 NCAC 10B .0301 and 12 NCAC ~~09B .0101(8)~~ **09B .0101**

5

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

7 *Eff. April 1, 2001;*

8 *Amended Eff. January 1, 2018; January 1, 2013; January 1, 2007; January 1, 2005;*

9 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*  
10 *2018;*

11 *Italicized Amendments have previously been published and are effective January 1, 2023.*

12 *Amended Eff. January 1, 2023.*



## Burgos, Alexander N

---

**Subject:** FW: Corrections to Rules

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**From:** Liebman, Brian R  
**Sent:** Wednesday, November 16, 2022 2:19 PM  
**To:** Jones, Sirena C  
**Cc:** Rules, Oah <[oah.rules@oah.nc.gov](mailto:oah.rules@oah.nc.gov)>  
**Subject:** Corrections to Rules

Hi Sirena,

I was reviewing the final rules before tomorrow, and I noticed a bunch of places where language looked like it was slated for deletion (i.e. it was bracketed) but not struck through. Can you take a quick look, make any corrections, and resubmit? We can fix typos after RRC approval, but if the typo has a substantive effect, you'd have to re-file to fix it.

Sorry for not noticing this earlier.

Brian

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

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## **Burgos, Alexander N**

---

**Subject:** FW: [External] RE: Request for Changes 12 NCAC 10B .0713

---

**From:** Peaslee, William W <bill.peaslee@oah.nc.gov>  
**Sent:** Thursday, November 10, 2022 4:18 PM  
**To:** Jones, Sirena C <scjones@ncdoj.gov>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** RE: [External] RE: Request for Changes 12 NCAC 10B .0713

Thank you for your email. I will inform the RRC of your request for an extension at the RRC meeting.

**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](mailto:Bill.Peaslee@oah.nc.gov)

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## Burgos, Alexander N

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**From:** Liebman, Brian R  
**Sent:** Monday, November 14, 2022 9:58 AM  
**To:** Burgos, Alexander N  
**Subject:** FW: [External] RE: 12 NCAC 10B SETSC Rules - October 2022 RRC Request for Changes

Brian Liebman  
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**Sent:** Monday, November 14, 2022 9:52 AM  
**To:** Jones, Sirena <[Scjones@ncdoj.gov](mailto:Scjones@ncdoj.gov)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>  
**Subject:** RE: [External] RE: 12 NCAC 10B SETSC Rules - October 2022 RRC Request for Changes

Hi Sirena,

Yes, this is fine. If I'm not mistaken, I think you submitted updated forms last month, right? Now that you've had an opportunity to send the draft rules over, and I'm telling you I don't see any issues, what I would ask is that you gather everything (final versions of the forms and rules) into one submission and send it to [oah.rules@oah.nc.gov](mailto:oah.rules@oah.nc.gov), copying Alex Burgos and me. I'll let them know these are the final rules ready for RRC review.

Also, I will take our correspondence, remove the drafts, and post it online in the interests of transparency.

Finally, for the record, I will be recommending approval of these rules at the meeting on Thursday. I don't anticipate the Commission having any questions for you, but if they do, someone from the agency should be present to answer. Let me know who from the agency will be appearing, and whether they will be remote or in person.

Thanks!  
Brian

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Enjoy your weekend.

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**Subject:** [External] RE: 12 NCAC 10B SETSC Rules - October 2022 RRC Request for Changes

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I will be available next week if there are any issues.

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Sirena Jones

Sheriffs' Standards Division

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**Sent:** Friday, September 30, 2022 11:57 AM

**To:** Jones, Sirena <[Scjones@ncdoj.gov](mailto:Scjones@ncdoj.gov)>

**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>

**Subject:** 12 NCAC 10B SETSC Rules - October 2022 RRC Request for Changes

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Please submit the revised Rules and forms to me via email, no later than 5 p.m. on Friday, October 14, 2022.

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

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**To:** Burgos, Alexander N  
**Subject:** FW: [External] RE: 12 NCAC 10B SETSC Rules - October 2022 RRC Request for Changes  
**Attachments:** 12 NCAC 10B .0205.docx

This is the final version of .0205, but again, I'm waiting for her to submit the whole batch. Just hang on to this.

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Thanks

Sirena

---

**From:** Jones, Sirena  
**Sent:** Thursday, November 10, 2022 5:00 PM  
**To:** Liebman, Brian R <[brian.liebman@oah.nc.gov](mailto:brian.liebman@oah.nc.gov)>  
**Subject:** RE: 12 NCAC 10B SETSC Rules - October 2022 RRC Request for Changes

Attached are the rules with changes.  
Thanks

Sirena Jones  
Sheriffs' Standards Division

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**From:** Liebman, Brian R <[brian.liebman@oah.nc.gov](mailto:brian.liebman@oah.nc.gov)>  
**Sent:** Friday, September 30, 2022 11:57 AM  
**To:** Jones, Sirena <[Scjones@ncdoj.gov](mailto:Scjones@ncdoj.gov)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>  
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In the meantime, please do not hesitate to reach out via email with any questions or concerns.

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## Burgos, Alexander N

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**Attachments:** 12 NCAC 10B Request for Changes 2.docx

This is final and can go up.

Brian Liebman  
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Hey Sirena,

Are these last two emails the final revised versions? If so, I'll send them to Alex for posting online.

I would like to go ahead and post our correspondence online, since it did result in changes to the Rules, just FYI. I'll leave your drafts out so nobody gets confused as to what version is official and what isn't.

Thanks!  
Brian

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**Attachments:** 12 NCAC 10B .0301(2).docx; 12 NCAC 10B .0302.docx; 12 NCAC 10B .0303.docx; 12 NCAC 10B .0304.docx; 12 NCAC 10B .0305.docx; 12 NCAC 10B .0306.docx; 12 NCAC 10B .0307.docx; 12 NCAC 10B .0410.docx; 12 NCAC 10B .0408.docx

These are the final rules for all but .0205. I did ask Sirena to re-submit all the final rules and forms in one package tho, so we'd have everything in one place. I don't think these need to go up on the website, but if she doesn't send them, these will need to go up, if that makes sense.

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**To:** Burgos, Alexander N  
**Subject:** FW: [External] Drafts of Joint rules- 12NCAC10B

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**Subject:** RE: [External] Drafts of Joint rules- 12NCAC10B

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☺ Yes I meant to say "in line." I just sent that .0205, so I look forward to your response.  
I appreciate your time!

**From:** Liebman, Brian R <brian.liebman@oah.nc.gov>  
**Sent:** Thursday, November 10, 2022 3:52 PM  
**To:** Jones, Sirena <Scjones@ncdoj.gov>  
**Subject:** RE: [External] Drafts of Joint rules- 12NCAC10B

Sirena,

I've reviewed these rules, and to my eye, they do look identical to the CJETS rules approved by the Commission. To that extent, as the Commission just approved this language in August and September, I will recommend approval.

As for R. 0205, I'm not sure what you're asking. When you say "on line" do you mean posted on the agenda? Or if it's OK to go? I haven't seen your response on that one yet, so I can't say if it's OK to go. As for it being on our online agenda, the originally submitted rule and the request for changes are online.

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Attached are **drafts** of the joint rules. Changes were made to mirror CJETS rules per SB 300. I wanted to get these to you for review to determine if there are any outstanding issues that may need to be addressed. Thanks!

FYI- .0205 we want to make sure that one is on line before sending you the draft. As I understood it, if we move forward with the other rules for the next meeting, we'll also have to move forward with 0205.

Title	CJ T&S Commission	Sheriffs T&S Commission
Minimum Standards	09B .0101 approved 8/15/22 09B .0114, .0116, .0117 Approved 9/15/22	10B .0301
Background Investigations	09B .0102 Approved 9/15/22	10B .0305
Medical Examinations	09B .0104 Approved 9/15/22	10B .0304
Employment Interview	09B .0105 Approved 9/15/22	10B .0306
Documentation of Educational Requirements	09B .0106 Approved 9/15/22	10B .0302
Criminal History Record	09B .0111 Approved 9/15/22	10B .0307
Agency Reporting of Drug Screen	09B .0310 Approved 9/15/22	10B .0410
Fingerprint Criminal History	09B .0103 Approved 8/18/22	10B .0303



**Sirena Jones**  
Deputy Director  
Sheriffs' Standards Division  
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Fax: 919-662-4515  
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**To:** Burgos, Alexander N  
**Subject:** FW: [External] 12 NCAC10B .0205- Daft

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Attached is a **draft** of .0205. We left the language for designedly and provided an explanation below in the responses. The responses should provide an explanation, but if not please let me know and we can figure things out. Thanks

*In (2)(b), line 15, clarify what “material misrepresentation” is and the bases used for determination.*

**Response:** The following language has been added to clarify the rule: “A material misrepresentation is a false representation of fact or omission of fact reported to or required to be reported to the Commission that if the true fact were known would have induced or caused the Commission to have treated the individual’s certification or application for certification differently.”

*In (2)(c) and (2)(d), lines 18 and 22 respectively, clarify what “designedly” is and the bases used for determination. Is this a legal standard akin to “deliberately”?*

**Response:** “Knowingly and designedly” is a common phrase in North Carolina law referring to intentional misrepresentations and fraud. N.C.G.S. § 14-100 uses this standard for the crime of obtaining property by false pretenses. The case law surrounding the statute has examined the standard in great detail.

Please note that this language is not new. It has existed in the code since the beginning and the RRC has never taken issue with it before including last month when the Criminal Justice Commission used the same language. We are happy to discuss with you. Changing this now would upend decades of Commission decisions and precedent.

*On page 2, line 3, please clarify what “extenuating circumstances” are and what bases are used for such determination.*

**Response:** Extenuating circumstances are any relevant information revealed during the administrative hearing, which may not have previously considered or revealed, which justify a lesser sanction in the view of the Administrative Law Judge or Commission. The provision is meant to allow general to discretion similar to that of a judge during sentencing at common law prior to statutory sentencing schemes to consider the wide variety of facts that may justify a reduction in punishment. For example, in a recent case, an extenuating circumstance was found where an officer committed the offense of cyberstalking by tracking his girlfriend with a GPS tracker, but he did so not to stalk her but to make sure his son was not taken to drug houses. This is the kind of unique fact set that would not fit an a priori class of circumstances. This will only be used to reduce the sanction against individuals and will not disadvantage them in anyway. The following sentence can be added to clarify the term extenuating circumstances if necessary, but the Commission desires to retain its discretion to reduce sanctions for broader reasons: “Extenuating circumstances are any relevant facts that in the judgment of the Commission warrant reducing the sanction and may consist of facts mitigating the culpability of their actions, evidence that the violation was aberrational or an isolated incident, evidence of successful service as a justice officer prior to and subsequent to the incident and likely successful future service, evidence of rehabilitation or correction of the issue leading to violation, a reputation for good moral character in the community, admission of culpability early in the investigation, and honesty and cooperation during the investigation.”



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Minimum Standards	09B .0101 approved 8/15/22 09B .0114, .0116, .0117 Approved 9/15/22	10B .0301
Background Investigations	09B .0102 Approved 9/15/22	10B .0305
Medical Examinations	09B .0104 Approved 9/15/22	10B .0304
Employment Interview	09B .0105 Approved 9/15/22	10B .0306
Documentation of Educational Requirements	09B .0106 Approved 9/15/22	10B .0302
Criminal History Record	09B .0111 Approved 9/15/22	10B .0307
Agency Reporting of Drug Screen	09B .0310 Approved 9/15/22	10B .0410
Fingerprint Criminal History	09B .0103 Approved 8/18/22	10B .0303



**Sirena Jones**  
Deputy Director  
Sheriffs' Standards Division  
Phone: 919-779-8213  
Fax: 919-662-4515  
[scjones@ncdoj.gov](mailto:scjones@ncdoj.gov)  
1700 Tryon Park Drive, Raleigh, NC 27610  
Post Office Box 629, Raleigh, NC 27602-0629  
[www.ncdoj.gov](http://www.ncdoj.gov)

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## Burgos, Alexander N

---

**From:** Liebman, Brian R  
**Sent:** Monday, November 14, 2022 9:55 AM  
**To:** Burgos, Alexander N  
**Subject:** FW: [External] Drafts of Joint rules- 12NCAC10B

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

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**From:** Jones, Sirena <Scjones@ncdoj.gov>  
**Sent:** Thursday, November 10, 2022 2:35 PM  
**To:** Liebman, Brian R <brian.liebman@oah.nc.gov>  
**Subject:** [External] Drafts of Joint rules- 12NCAC10B

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Attached are **drafts** of the joint rules. Changes were made to mirror CJETS rules per SB 300. I wanted to get these to you for review to determine if there are any outstanding issues that may need to be addressed. Thanks!

FYI- .0205 we want to make sure that one is on line before sending you the draft. As I understood it, if we move forward with the other rules for the next meeting, we'll also have to move forward with 0205.

Title	CJ T&S Commission	Sheriffs T&S Commission
Minimum Standards	09B .0101 approved 8/15/22 09B .0114, .0116, .0117 Approved 9/15/22	10B .0301
Background Investigations	09B .0102 Approved 9/15/22	10B .0305
Medical Examinations	09B .0104 Approved 9/15/22	10B .0304
Employment Interview	09B .0105 Approved 9/15/22	10B .0306
Documentation of Educational Requirements	09B .0106 Approved 9/15/22	10B .0302
Criminal History Record	09B .0111 Approved 9/15/22	10B .0307

Agency Reporting of Drug Screen	09B .0310 Approved 9/15/22	10B .0410
Fingerprint Criminal History	09B .0103 Approved 8/18/22	10B .0303



**Sirena Jones**  
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## Burgos, Alexander N

---

**From:** Liebman, Brian R  
**Sent:** Monday, November 14, 2022 9:52 AM  
**To:** Jones, Sirena C  
**Cc:** Burgos, Alexander N  
**Subject:** RE: [External] RE: 12 NCAC 10B SETSC Rules - October 2022 RRC Request for Changes

Hi Sirena,

Yes, this is fine. If I'm not mistaken, I think you submitted updated forms last month, right? Now that you've had an opportunity to send the draft rules over, and I'm telling you I don't see any issues, what I would ask is that you gather everything (final versions of the forms and rules) into one submission and send it to [oah.rules@oah.nc.gov](mailto:oah.rules@oah.nc.gov), copying Alex Burgos and me. I'll let them know these are the final rules ready for RRC review.

Also, I will take our correspondence, remove the drafts, and post it online in the interests of transparency.

Finally, for the record, I will be recommending approval of these rules at the meeting on Thursday. I don't anticipate the Commission having any questions for you, but if they do, someone from the agency should be present to answer. Let me know who from the agency will be appearing, and whether they will be remote or in person.

Thanks!  
Brian

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

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---

**From:** Jones, Sirena <[Scjones@ncdoj.gov](mailto:Scjones@ncdoj.gov)>  
**Sent:** Sunday, November 13, 2022 4:17 PM  
**To:** Liebman, Brian R <[brian.liebman@oah.nc.gov](mailto:brian.liebman@oah.nc.gov)>  
**Subject:** RE: [External] RE: 12 NCAC 10B SETSC Rules - October 2022 RRC Request for Changes

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Is it possible to submit these changes? I attached it to this email if this is acceptable.  
Thanks

---

**From:** Liebman, Brian R <[brian.liebman@oah.nc.gov](mailto:brian.liebman@oah.nc.gov)>  
**Sent:** Thursday, November 10, 2022 5:19 PM  
**To:** Jones, Sirena <[Scjones@ncdoj.gov](mailto:Scjones@ncdoj.gov)>  
**Subject:** RE: [External] RE: 12 NCAC 10B SETSC Rules - October 2022 RRC Request for Changes

No, I didn't have any major issues with the .0205 language. I saw a few minor typo type things that can be easily fixed though, see below:

In (2)(b), make sure you take the semi colon out before the material misrepresentation definition.

In (3)(a), I think you want to say "Sections .0500, .0600 and .1300 of this Subchapter" instead of "Title 12, subchapter 10B..."

Otherwise, it looks OK to me.

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

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---

**From:** Jones, Sirena <[Scjones@ncdoj.gov](mailto:Scjones@ncdoj.gov)>  
**Sent:** Thursday, November 10, 2022 5:16 PM  
**To:** Liebman, Brian R <[brian.liebman@oah.nc.gov](mailto:brian.liebman@oah.nc.gov)>  
**Subject:** RE: [External] RE: 12 NCAC 10B SETSC Rules - October 2022 RRC Request for Changes

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---

The submitted rules are the final versions.

I did not hear back on the .0205, but I know it was the last one that I sent over to you. I included an explanation of the main issues, so if you do not see any major problems with that one, it can be the final version. If there is an issue with .0205 I'm not sure what we can do at this point. Let me know. Thanks again for your time on this.

Enjoy your weekend.

---

**From:** Liebman, Brian R <[brian.liebman@oah.nc.gov](mailto:brian.liebman@oah.nc.gov)>  
**Sent:** Thursday, November 10, 2022 5:12 PM  
**To:** Jones, Sirena <[Scjones@ncdoj.gov](mailto:Scjones@ncdoj.gov)>  
**Subject:** RE: [External] RE: 12 NCAC 10B SETSC Rules - October 2022 RRC Request for Changes

Hey Sirena,

Are these last two emails the final revised versions? If so, I'll send them to Alex for posting online.

I would like to go ahead and post our correspondence online, since it did result in changes to the Rules, just FYI. I'll leave your drafts out so nobody gets confused as to what version is official and what isn't.

Thanks!  
Brian

Brian Liebman  
Counsel to the North Carolina Rules Review Commission  
Office of Administrative Hearings

(984)236-1948

[brian.liebman@oah.nc.gov](mailto:brian.liebman@oah.nc.gov)

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**From:** Jones, Sirena <[Scjones@ncdoj.gov](mailto:Scjones@ncdoj.gov)>  
**Sent:** Thursday, November 10, 2022 5:03 PM  
**To:** Liebman, Brian R <[brian.liebman@oah.nc.gov](mailto:brian.liebman@oah.nc.gov)>  
**Subject:** [External] RE: 12 NCAC 10B SETSC Rules - October 2022 RRC Request for Changes

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I am also attaching .0205.  
I will be available next week if there are any issues.  
Thanks

Sirena

**From:** Jones, Sirena  
**Sent:** Thursday, November 10, 2022 5:00 PM  
**To:** Liebman, Brian R <[brian.liebman@oah.nc.gov](mailto:brian.liebman@oah.nc.gov)>  
**Subject:** RE: 12 NCAC 10B SETSC Rules - October 2022 RRC Request for Changes

Attached are the rules with changes.  
Thanks

Sirena Jones  
Sheriffs' Standards Division

**From:** Liebman, Brian R <[brian.liebman@oah.nc.gov](mailto:brian.liebman@oah.nc.gov)>  
**Sent:** Friday, September 30, 2022 11:57 AM  
**To:** Jones, Sirena <[Scjones@ncdoj.gov](mailto:Scjones@ncdoj.gov)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>  
**Subject:** 12 NCAC 10B SETSC Rules - October 2022 RRC Request for Changes

Good morning,

I'm the attorney who reviewed the Rules submitted by the Sheriff's Education and Training Standards Commission for the October 2022 RRC meeting. The RRC will formally review these Rules at its meeting on Thursday, October 20, 2022, at 9:00 a.m. The meeting will be a hybrid of in-person and WebEx attendance, and an invite should be sent to you as we get closer to the meeting. If there are any other representatives from your agency who will want to attend virtually, let me know prior to the meeting, and we will get invites out to them as well.

Please submit the revised Rules and forms to me via email, no later than 5 p.m. on Friday, October 14, 2022.

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

Thanks,

Brian

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

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## Burgos, Alexander N

---

**From:** Peaslee, William W  
**Sent:** Saturday, November 12, 2022 12:15 PM  
**To:** Burgos, Alexander N  
**Cc:** Jones, Sirena C  
**Subject:** FW: [External] 12NCAC 10B .0603  
**Attachments:** changes12 ncac 10B .0603 highlights.docx

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Alex,

Based upon the amendments in response to the Request for Changes attached hereto, it is my intention to recommend approval to the RRC.

**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](mailto:Bill.Peaslee@oah.nc.gov)

---

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---

**From:** Jones, Sirena <Scjones@ncdoj.gov>  
**Sent:** Thursday, November 10, 2022 4:57 PM  
**To:** Peaslee, William W <bill.peaslee@oah.nc.gov>  
**Subject:** [External] 12NCAC 10B .0603

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Good afternoon.

I attempted to do as you suggested with highlighting the changes that I made after your initial review. I hope I did this correctly so that I am not confusing you.

If it is too confusing please let me know and I can make any adjustments.

Thanks



**Sirena Jones**

Deputy Director

Sheriffs' Standards Division

Phone: 919-779-8213

Fax: 919-662-4515

[scjones@ncdoj.gov](mailto:scjones@ncdoj.gov)

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

AGENCY: North Carolina Sheriff's Education and Training Standards Commission

RULE CITATION: 12 NCAC 10B .0603

**DEADLINE FOR RECEIPT: November 10, 2022**

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

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

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

*Generally, to the Rule: It appears that the Rule could be made much more concise. The Commission may want to consider re-writing the Rule. Rather than*

*Page 1, Line 27: The Commission's rules only mention "General Detention Officer Certification" in Rule .0603. This certification is not mentioned elsewhere in Chapter 10B. How does one get this certification?*

***Response: General justice officer certification as a detention officer pursuant to 12 NCAC 10B. 0404 has been added to refer to the proper type of certification.***

*Page 1, Line 33: "Grandfather Detention Officer Certification" is an undefined term. What is it and how does someone get the certification?*

***Response: GS § 17E-7(a) which defines the term has been added as a reference.***

*Page 2, Line 9: The term "general certification as a correctional officer" is undefined in the rules of the North Carolina Criminal Justice Education and Training Standards Commission." Please identify the specific certification by rule or statute.*

***Response: A reference to 12 NCAC 09G .0304 has been added to this section to clarify its meaning.***

*Page 2, Lines 8-28: Section (c) is confusing as written. Is (c) conditions precedent to an evaluation or the criteria for the evaluation?*

***Response: This section has been clarified to list the criteria for qualifying for a waiver.***

*Page 2, Lines 11-12: There appears to be a punctuation and spacing issue.*

***Response: Corrected***

William W. Peaslee  
Commission Counsel

Date submitted to agency: November 4, 2022

Page 2, Line 12: Are there any specifications for the correctional officer training? Could it be from another State? YouTube? Distance learning?

**Response:** Yes, it has been added to clarify that the correctional officer training had to be through the State of North Carolina to qualify. During this time period there was a training program for correctional officers changed and was codified at that time into 12 NCAC 09G .0411. No similar provision to reference exists for the time prior to this date to reference, but there was a training program for the state.

Page 2, Line 13: "Transfers" from where? Should "to" be "from"?

**Response:** Clarified. This section is referring to correctional officers leaving a job with State Division of Adult Corrections prison and accepting a job as a detention officer in a regional confinement facility or sheriff's office. The individual transferring would be applying for certification as a detention officer through a Sheriff's Office or Confinement facility. By changing it to "is an applicant for justice officer certification through a sheriff's office or a district confinement facility," the change addresses the ambiguity of the term transfers.

Page 2, Line 15: How can an individual be "transferring" and have a break in service?

**Response:** Clarified to show that the break in service is referring to the time between when a correctional officers leaves the position to when he/she is appointed as a detention officer. This break in service cannot be longer than one year.

Page 2, Line 17: Where is the "State Comprehensive Examination" defined or set forth in a Rule? **Response:** Citation to 12 NCAC 10B .0606 has been added to this section

Page 2, Line 33: Are there any specifications for the correctional officer training? Could it be from another State? YouTube? Distance learning?

**Response:** This has been added to clarify that the training is 12 NCAC 9G .0411 Basic Training for Correctional Officers. That reference has been added to this section.

Page 2, Line 34: "Transfers" from where? Should "to" be "from"? **This has been clarified to show that it is someone who left employment with DAC prison and is now applying for justice officer certification.**

Page 2, Line 36: What does the agency mean by "break in service"? Break from a previously held correctional officer position? **Response:** Clarified to show that the break in service is referring to the time between when a correctional officers leaves the position to when he/she is appointed as a detention officer. This break in service cannot be longer than one year.

Page 3, Line 1: What documentation is the Commission requiring?

William W. Peaslee  
Commission Counsel

Date submitted to agency: November 4, 2022

**Response:** Information has been added regarding the record of completion for the basic correctional officer training course.

*Page 3, Line 3: Upon what criteria will the Division base its decision? The current course curriculum for the correctional officer training.* **Response:** Clarified to reflect that the curriculum of the training the officer took and current DOCC curriculum are compared to ensure the officer received comparable training to the current DOCC curriculum and any deficiencies that must be remedied.

*Page 3, Line 7: Where is the "State Comprehensive Examination" defined or set forth in a Rule?* **Response:** Added the examination requirement .0606

*Page 3, Line 8: What "required training"? The training required by the Division's determination in (d)(2)(A)?* **The training the Division determines is necessary to meet current DOCC standards.**

*Page 3, Line 10: The term "general deputy sheriff certification" does not appear in Chapter 10. Please identify the certification the Commission intends. By probationary certification, is the Commission referring to 12 NCAC 10B .0402?*

**Response:** Corrected to general and probationary justice officer certification as a deputy.

*Page 3, Line 11 and 12: Move "issued" after "probationary or general certification". Or is a law enforcement officer issuing the certification?* **Done**

*Page 3, Line 14: As Consider citing 12 NCAC 09B .0205* **Done**

*Page 3, Line 18: Where is the "State Comprehensive Examination" defined or set forth in a Rule?* **Added .0606**

*Page 3, Line 19: Are the topic areas in Lines 22-236 part of the Detention Officer Training Course (DOTC)? If so, the use of the "after" is odd. As written the officer would need to take a course in the topic areas and then take the DOTC. If training is needed over and above the DOTC, consider making these requirements (5).* **Clarified**

*The following is a re-write of (c) which is offered for consideration and not as a requirement. If it meets the Commission's intentions, it is more concise language and, I will submit, easier to read. This is provided merely as an example and as an attempt to aid the Commission.*

(c) For individuals who have completed training as a correctional officer pursuant to Rule \_\_\_\_\_ between January 1, 1981, and August 1, 2002, the Division shall grant a waiver of the education requirements of 12 NCAC 10B .0601 if individuals:

- A) Have a general certification as a correctional officer from the North Carolina Criminal Justice Education and Training Standards Commission pursuant to Rule \_\_\_\_\_; and

William W. Peaslee  
Commission Counsel

Date submitted to agency: November 4, 2022

- B) Have within the preceding twelve months held a detention officer position with sheriff's office or district confinement facility; and *(they would currently be an applicant for detention certification)*
- C) Serve a 12-month probationary period as set forth in Rule .0602(a) of this Section; and *(written this way the probationary period is required before completion of the training requirement)*
- D) Have completed the following topics of instruction in a commission-certified Detention Officer Certification Course:
  - a. Orientation
  - b. Etc., Etc.; and
- E) Have successfully completed the State Comprehensive Examination pursuant to \_\_\_\_\_.

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

## Burgos, Alexander N

---

**Subject:** FW: [External] RE: Request for Changes 12 NCAC 10B .0713

---

**From:** Jones, Sirena <Scjones@ncdoj.gov>  
**Sent:** Wednesday, November 9, 2022 4:51 PM  
**To:** Peaslee, William W <bill.peaslee@oah.nc.gov>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** [External] RE: Request for Changes 12 NCAC 10B .0713

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Good afternoon.

I respectfully request additional time to work on the amendments and responses to 12 NCAC 10B .0713.

Thanks for your consideration.



**Sirena Jones**  
Deputy Director  
Sheriffs' Standards Division  
Phone: 919-779-8213  
Fax: 919-662-4515  
[scjones@ncdoj.gov](mailto:scjones@ncdoj.gov)  
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## **Burgos, Alexander N**

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**Subject:** FW: [External] RE: Request for Changes 12 NCAC 10B .0713  
**Attachments:** 11.2022 - Sheriff Education Request for Changes 12 NCAC 10B .0603.docx

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**From:** Peaslee, William W <bill.peaslee@oah.nc.gov>  
**Sent:** Friday, November 4, 2022 10:38 AM  
**To:** Jones, Sirena C <scjones@ncdoj.gov>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** RE: [External] RE: Request for Changes 12 NCAC 10B .0713

Good morning Sirena.

I'm the attorney who reviewed the Rules submitted by the North Carolina Sheriffs' Education and Training Standards Commission for the November 2022 RRC meeting. The RRC will formally review these Rules at its meeting on Thursday, November 17, 2022, at 9:00 a.m. The meeting will be a hybrid of in-person and WebEx attendance, and an invite should be sent to you as we get closer to the meeting. If there are any other representatives from your agency who will want to attend virtually, let me know prior to the meeting, and we will get invites out to them as well.

Please submit the revised Rules and forms to me via email, no later than 5 p.m. on November 10, 2022.

In the meantime, please let me know if you have any questions or concerns.

**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](mailto:Bill.Peaslee@oah.nc.gov)

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**From:** Peaslee, William W [bill.peaslee@oah.nc.gov](mailto:bill.peaslee@oah.nc.gov)  
**Sent:** Friday, November 4, 2022 10:01 AM  
**To:** Jones, Sirena C [scjones@ncdoj.gov](mailto:scjones@ncdoj.gov)  
**Cc:** Burgos, Alexander N [alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)  
**Subject:** RE: [External] RE: Request for Changes 12 NCAC 10B .0713

Thank you for your email.

I am reviewing Rule 603. I am working on the Request for Changes which I am afraid will be lengthy. I hope to have it to you today.

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](mailto:Bill.Peaslee@oah.nc.gov)

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Send Attach Encrypt Discard ...

To Bcc

Cc

Fw: [External] RE: Request for Changes 12 NCAC 10B .0713

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**From:** Jones, Sirena <Scjones@ncdoj.gov>  
**Sent:** Thursday, November 3, 2022 4:37 AM  
**To:** Peaslee, William W <bill.peaslee@oah.nc.gov>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** [External] RE: Request for Changes 12 NCAC 10B .0713

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Good afternoon Mr. Peaslee.  
 I also submitted 10B .0603 and I have not heard anything back on that one. Are you reviewing that one as well?

Thanks

Sirena Jones

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Send 
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Draft saved at 6:49 AM



## **Burgos, Alexander N**

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**From:** Peaslee, William W  
**Sent:** Wednesday, October 26, 2022 3:52 PM  
**To:** Jones, Sirena C  
**Cc:** Burgos, Alexander N  
**Subject:** Request for Changes 12 NCAC 10B .0713  
**Attachments:** November 2022 Request for Changes 12 NCAC 10B .0713.docx

I'm the attorney who reviewed the Rules submitted by the North Carolina Sheriffs' Education and Training Standards Commission for the November 2022 RRC meeting. The RRC will formally review these Rules at its meeting on Thursday, November 17, 2022, at 9:00 a.m. The meeting will be a hybrid of in-person and WebEx attendance, and an evite should be sent to you as we get closer to the meeting. If there are any other representatives from your agency who will want to attend virtually, let me know prior to the meeting, and we will get evites out to them as well.

Please submit the revised Rules and forms to me via email, no later than 5 p.m. on November 9, 2022.

In the meantime, please let me know if you have any questions or concerns.

**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](mailto:Bill.Peaslee@oah.nc.gov)

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