

Burgos, Alexander N

From: Peaslee, William W
Sent: Friday, July 22, 2022 3:54 PM
To: Jones, Sirena C
Cc: robert.pickett@ncdoj.gov; Burgos, Alexander N
Subject: 12 NCAC 10B .0704 statement of objection
Attachments: 07.2022 Sheriffs' ETSC Objection Letter.pdf

Good afternoon:

Attached please find the Rules Review Commission's statement of objection and the reasons for objection pursuant to G.S. 150B-21.12.

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: Request for changes 12 NCAC 10B .0704
Attachments: 12 NCAC 10B. .0704.docx

From: Jones, Sirena <Scjones@ncdoj.gov>
Sent: Monday, July 18, 2022 4:34 PM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] RE: Request for changes 12 NCAC 10B .0704

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I plan to be there, along with Robert Pickett, legal counsel for the Commission.

Since the last submission, clarification has been made to parts of the Rule. Those changes are documented in the attachment.

Thanks

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.

Permanent Amendment for Publication in the NCAC

1 12 NCAC 10b .0704 is amended with changes as published in volume 36, issue 15, pages 1292-1296 of the North
2 Carolina public register as follows:

4 12 NCAC 10B .0704 RESPONSIBILITIES: SCHOOL DIRECTORS, DETENTION OFFICER COURSE

5 (a) In planning, developing, coordinating, and delivering each commission-certified Detention Officer Certification
6 Course, the ~~school~~ School director ~~Director~~ shall:

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

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

13 (B) In the event of exceptional or emergency circumstances, the Director shall, upon written
14 finding of justification, grant a waiver of the minimum hours requirement.

15 (C) the Director shall allow additional breaks in a specific course delivery when the Director
16 determines that doing so is necessary based on circumstances related to a lawfully declared
17 State of Emergency pursuant to G.S. 166A-19.3(19).

18 (2) Select and schedule instructors who are ~~properly~~ pursuant to 12 NCAC 10B .0903 certified by the
19 Commission. The selecting and scheduling of instructors is subject to special requirements as
20 follows:

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

24 (B) Where the ~~school~~ School director ~~Director~~ ~~shows~~ submits in writing to the Director of the
25 Division a showing of exceptional or emergency ~~circumstances~~ circumstances, and the
26 school director documents that an instructor is properly certified to instruct more than 35
27 percent of the total hours of the curriculum, the Director of the Division shall grant written
28 approval for the expansion of the individual instructional limitation. Emergencies
29 justifying an instructor to teach more than 35% of a Detention Officer Certification Course
30 include situations when illness, accident, or other exceptional circumstances make it
31 unfeasible to staff the class with other certified instructors.

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

34 (3) Provide each instructor with a commission-approved course outline and all necessary additional
35 information concerning the instructor's duties and responsibilities in line with the Commissions'
36 regulations and applicable Detention Officer Certification Course Manual and Management Guide.

- 1 (4) Review each instructor's lesson plans and other instructional materials for conformance to the rules
2 in this Chapter and to minimize repetition and duplication of subject matter.
- 3 (5) Arrange for the timely availability of **appropriate** audiovisual aids and materials, publications,
4 facilities and equipment for training in all topic areas as required in the "Detention Officer
5 Certification Course Management Guide".
- 6 (6) Develop, adopt, reproduce, and distribute any supplemental rules, regulations, and requirements
7 determined by the school to be necessary or appropriate for:
- 8 (A) Effective course delivery;
- 9 (B) Establishing responsibilities and obligations of agencies or departments employing course
10 trainees; and
- 11 (C) Regulating trainee participation and demeanor and ensuring trainee attendance and
12 maintaining performance records.

13 A copy of such rules, regulations and requirements shall be submitted to the Director as an attachment to the
14 Pre-Delivery Report of Training Course Presentation, Form F-7A. A copy of such rules shall also be given to each
15 trainee and to the sheriff of each trainee's employing agency at the time the trainee enrolls in the course.

- 16 (7) If appropriate, recommend housing and dining facilities for trainees.
- 17 (8) Not less than 30 days before commencing delivery of the course, submit to the Commission a
18 Pre-Delivery Report of Training Course Presentation (Form F-7A) **that includes information on the**
19 **course delivery location, school director, class schedule, anticipated date of the State**
20 **Comprehensive Exam, and any planned instructional hours in addition to the minimum requirements**
21 along with the following attachments:
- 22 (A) A comprehensive course schedule showing arrangement of topical presentations and
23 proposed instructional assignments;
- 24 (B) A copy of any rules, regulations, and requirements for the school and, when appropriate,
25 completed applications for certification of instructors. The Director shall review the
26 submitted Pre-Delivery Report together with all attachments to ensure that the school is in
27 compliance with all commission rules; if school's rules are found to be in violation, the
28 Director shall notify the school director of **any** deficiency, and approval shall be withheld
29 until all matters are in compliance with the Commissions' rules.

30 ~~(9) Administer the course delivery in accordance with the rules in this Chapter and ensure that the~~
31 ~~training offered is as effective as possible.~~

32 ~~(10) (9) Monitor Monitor,~~ or designate a certified instructor to **monitor monitor,** the presentations of all
33 ~~probationary~~ instructors during course delivery and prepare written evaluations on their
34 performance and suitability for subsequent instructional assignments. A person holding General
35 Instructor Certification under the Criminal Justice Education and Training Standards Commission
36 may evaluate instructors teaching any lecture portion of the course. However, if a Limited Lecturer

1 is evaluated during the practical portion of a block of instruction, he/she must be evaluated by either
2 the School Director or another instructor holding the equivalent type of instructor certification.
3 These evaluations shall be prepared on ~~commission forms~~ the Instructor Evaluation form F-16, and
4 forwarded to the Division at the conclusion of each delivery. Based on this evaluation referenced in
5 12 NCAC 10B .0905(B)(1), the school director shall recommend approval or denial of requests for
6 Detention Officer Instructor Certification, Limited Lecturer Certification or Professional Lecturer
7 Certification. The observations shall ~~be of sufficient duration~~ to ensure the instructor is using the
8 Instructional System Systems Development Design model, as taught in Criminal Justice Instructor
9 Training set out in 12 NCAC 09B .0209, and that the delivery is objective based, documented by
10 and consistent with a Commission-approved lesson plan. For each topic area, the school director's
11 or designee's evaluation shall be based on the course delivery observations, the instructor's use of
12 the approved lesson plan, and the results of the students evaluations of the instructor.

13 ~~(11)~~(10) Monitor or designate a certified instructor to monitor the presentations of all other instructors during
14 course delivery and prepare written evaluations on their performance and suitability for subsequent
15 instructional assignments. A person holding General Instructor Certification under the Criminal
16 Justice Education and Training Standards Commission may evaluate instructors teaching any lecture
17 portion of the course. However, if a Limited Lecturer is evaluated during the practical portion of a
18 block of instruction, he/she must be evaluated by either the School Director or another instructor
19 holding the equivalent type of instructor certification. Instructor evaluations shall be prepared on
20 ~~commission forms~~ the Instructor Evaluation form F-16, in accordance with the rules in this Chapter.
21 Form F-16 shall include information on the instructor, evaluator, courses taught and observed,
22 location and time of delivery, sponsoring agency, and evaluation of instructor performance based
23 upon instructor ability and use of instructional strategies taught in the Criminal Justice Instructor
24 Training. These evaluations shall be kept on file by the school for a period of three years and shall
25 be made available for inspection by a representative of the Commission upon request. The
26 observations shall be of sufficient duration to ensure the instructor is using the Instructional System
27 Systems Development Design model, as taught in Criminal Justice Instructor Training set out in 12
28 NCAC 09B .0209, and that the delivery is consistent with and based upon the training ~~objective~~
29 objectives ~~based, documented by and consistent with a~~ in the Commission-approved lesson plan.
30 For each topic area, the school director's or designee's evaluation shall be based on the course
31 delivery observations, the instructor's use of the approved lesson plan, and the results of the ~~students~~
32 student's evaluations of the instructor.

33 ~~(12)~~(11) Ensure that any designated certified instructor who is evaluating the instructional presentation of
34 another holds certification in the same instructional topic area as that being taught.

35 ~~(13)~~(12) Administer or designate a person to administer appropriate tests as determined necessary at various
36 intervals during course delivery.

1 ~~(14)~~(13) Maintain direct 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 delegated.

3 ~~(15)~~(14) During a delivery of the Detention Officer Certification Course, make available to authorized
4 representatives of the Commission three hours of scheduled class time and classroom facilities for
5 the administration of a written examination to those trainees who have satisfactorily completed all
6 course work.

7 ~~(16)~~(15) Not more than ten days after receiving from the Commission's representative the Report of
8 Examination Scores, submit to the Commission a Post-Delivery Report of Training Course
9 Presentation (Form 7-B). Submit to the Commission a Post-Delivery Report of Training Course
10 Presentation (Form 7-B), which shall include information on the sponsoring agency, course
11 beginning and end date, and deviations from the planned course delivery as specified on Form 7-A,
12 within ten days of receiving the Commission's Report of Examination Scores.

13 (b) In addition to the requirements in 12 NCAC 10B .0704(a), the school director shall be readily available to students
14 and Division staff at all times during course delivery by telephone, pager, or other means. The means, and applicable
15 numbers, shall be filed with the commission-certified training delivery site and the Division prior to the beginning of
16 a scheduled course delivery.

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

19 *Eff. January 1, 1989;*

20 *Amended Eff. January 1, 2009; January 1, 2006; January 1, 2005; August 1, 1998; January 1, 1996;*
21 *January 1, 1994; January 1, 1992;*

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, 2022*
25
26
27
28

Burgos, Alexander N

Subject: FW: [External] RE: Request for changes 12 NCAC 10B .0704

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Monday, July 18, 2022 11:48 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 .0704

Good morning Sirena,

Please let me know if the agency will have anyone at the Commission meeting who wishes to speak in support of the Rule, or if the agency requests an extension.

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: Request for changes 12 NCAC 10B .0704

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Friday, July 15, 2022 2:27 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 .0704

Yes it will. Here is a link to the July agenda.

[RRC Meeting Agenda July 2022 | NC OAH](#)

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
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Raleigh NC, 27609
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From: Jones, Sirena <Scjones@ncdoj.gov>
Sent: Friday, July 15, 2022 2:23 PM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Subject: RE: [External] RE: Request for changes 12 NCAC 10B .0704

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Forgive me if I missed it, but will this rule still be addressed at the meeting next week?

Burgos, Alexander N

Subject: FW: [External] RE: Request for changes 12 NCAC 10B .0704
Attachments: NC Sheriffs' Training Comm 12 NCAC 10B .0704 Staff Opinion.doc

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Friday, July 15, 2022 11:10 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 .0704

Good morning.

Attached please find the staff opinion I am issuing 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
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Bill.Peaslee@oah.nc.gov

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Burgos, Alexander N

Subject: FW: [External] RE: Request for changes 12 NCAC 10B .0704
Attachments: 12 NCAC 10B. .0704.docx

From: Jones, Sirena <Scjones@ncdoj.gov>
Sent: Wednesday, July 13, 2022 11:10 AM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] RE: Request for changes 12 NCAC 10B .0704

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

Good morning.
I appreciate the information. The correct format is attached.
Thanks

12 NCAC 10b .0704 is amended with changes as published in volume 36, issue 15, pages 1292-1296 of the North Carolina public register as follows:

12 NCAC 10B .0704 RESPONSIBILITIES: SCHOOL DIRECTORS, DETENTION OFFICER COURSE

(a) In planning, developing, coordinating, and delivering each commission-certified Detention Officer Certification Course, the ~~school~~ School director ~~Director~~ shall:

- (1) Formalize and schedule the course curriculum in accordance with the curriculum standards established by the rules in this Chapter.
 - (A) The Detention Officer Certification Course ~~may~~ 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.
 - (B) In the event of exceptional or emergency circumstances, the Director shall, upon written finding of justification, grant a waiver of the minimum hours requirement.
 - (C) the Director shall allow additional breaks in a specific course delivery when the Director determines that doing so is necessary based on circumstances related to a lawfully declared State of Emergency pursuant to G.S. 166A-19.3(19).
- (2) Select and schedule instructors who are ~~properly~~ pursuant to 12 NCAC 10B .0903 certified by the Commission. The selecting and scheduling of instructors is subject to special requirements as follows:
 - (A) No single ~~individual~~ instructor may be scheduled to instruct more than 35 percent of the total hours of the curriculum during any ~~one~~ Detention Officer Certification Course delivery except as set forth in Part (a)(2)(B) of this Rule.
 - (B) Where the ~~school~~ School director ~~Director~~ shows exceptional or emergency circumstances and the school director documents that an instructor is properly certified to instruct more than 35 percent of the total hours

~~of the curriculum,~~ the Director of the Division shall grant written approval for the expansion of the individual instructional limitation.

- (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 all necessary **additional** information concerning the instructor's duties and responsibilities.
- (4) Review each instructor's lesson plans and other instructional materials for conformance to the rules in this Chapter and to minimize repetition and duplication of subject matter.
- (5) Arrange for the timely availability of **appropriate** audiovisual aids and materials, publications, facilities and equipment for training in all topic areas as required in the "Detention Officer Certification Course Management Guide".
- (6) Develop, adopt, reproduce, and distribute any supplemental rules, regulations, and requirements determined by the school to be necessary or appropriate for:
 - (A) Effective course delivery;
 - (B) Establishing responsibilities and obligations of agencies or departments employing course trainees; and
 - (C) Regulating trainee participation and demeanor and ensuring trainee attendance and maintaining performance records.

A copy of such rules, regulations and requirements 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 of each trainee's employing agency at the time the trainee enrolls in the course.

- (7) If appropriate, recommend housing and dining facilities for trainees.
- (8) 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) along with the following attachments:
 - (A) A comprehensive course schedule showing 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 school's rules are found to be in violation, the Director shall notify the school director of **any** deficiency, and approval shall be withheld until all matters are in compliance with the Commissions' rules.

~~(9) Administer the course delivery in accordance with the rules in this Chapter and ensure that the training offered is as effective as possible.~~

~~(10)~~ **(9) Monitor Monitor,** or designate a certified instructor to **monitor monitor,** the presentations of all ~~probationary~~ instructors during course delivery and prepare written evaluations on their performance and suitability for subsequent instructional assignments. A person holding General Instructor Certification under the Criminal Justice Education and Training Standards Commission may evaluate instructors teaching any lecture portion of the course. However, if a Limited Lecturer is evaluated during the practical portion of a block of instruction, he/she must be evaluated by either the School Director or another instructor holding the equivalent type of **instructor** certification. These evaluations shall be prepared on ~~commission forms~~ **the Instructor Evaluation form F-16,** and forwarded to the Division at the conclusion of each delivery. Based on this evaluation **referenced in 12 NCAC 10B .0905(B)(1),** the school director shall recommend approval or denial of requests for Detention Officer Instructor Certification, Limited Lecturer Certification or Professional Lecturer Certification. The observations shall ~~be of sufficient duration~~ to ensure the

instructor is using the Instructional System Systems Development Design model, as taught in Criminal Justice Instructor Training set out in 12 NCAC 09B .0209, and that the delivery is objective based, documented by and consistent with a Commission-approved lesson plan. For each topic area, the school director's or designee's evaluation shall be based on the course delivery observations, the instructor's use of the approved lesson plan, and the results of the students evaluations of the instructor.

~~(11)~~(10) Monitor or designate a certified instructor to monitor the presentations of all other instructors during course delivery and prepare written evaluations on their performance and suitability for subsequent instructional assignments. A person holding General Instructor Certification under the Criminal Justice Education and Training Standards Commission may evaluate instructors teaching any lecture portion of the course. However, if a Limited Lecturer is evaluated during the practical portion of a block of instruction, he/she must be evaluated by either the School Director or another instructor holding the equivalent type of instructor certification. Instructor evaluations shall be prepared on commission forms the Instructor Evaluation form F-16, in accordance with the rules in this Chapter. These evaluations shall be kept on file by the school for a period of three years and shall be made available for inspection by a representative of the Commission upon request. The observations shall be of sufficient duration to ensure the instructor is using the Instructional System Systems Development Design model, as taught in Criminal Justice Instructor Training set out in 12 NCAC 09B .0209, and that the delivery is objective based, documented by and consistent with a Commission-approved lesson plan. For each topic area, the school director's or designee's evaluation shall be based on the course delivery observations, the instructor's use of the approved lesson plan, and the results of the students evaluations of the instructor.

~~(12)~~(11) 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.

~~(13)~~(12) Administer or designate a person to administer appropriate tests as determined necessary at various intervals during course delivery.

~~(14)~~(13) Maintain direct supervision, direction, and control over the performance of all persons to whom any portion of the planning, development, presentation, or administration of a course has been delegated.

~~(15)~~(14) During a delivery of the Detention Officer Certification Course, make available to authorized representatives of the Commission three hours of scheduled class time and classroom facilities for the administration of a written examination to those trainees who have satisfactorily completed all course work.

~~(16)~~(15) Not more than ten days after receiving from the Commission's representative the Report of Examination Scores, submit to the Commission a Post-Delivery Report of Training Course Presentation (Form 7-B). Submit to the Commission a Post-Delivery Report of Training Course Presentation (Form 7-B) within ten days of receiving the Commission's Report of Examination Scores.

(b) In addition to the requirements in 12 NCAC 10B .0704(a), the school director shall be readily available to students and Division staff at all times during course delivery by telephone, pager, or other means. The means, and applicable numbers, shall be filed with the commission-certified training delivery site and the Division prior to the beginning of a scheduled course delivery.

*History Note: Authority G.S. 17E-4;
Eff. January 1, 1989;
Amended Eff. January 1, 2009; January 1, 2006; January 1, 2005; August 1, 1998; 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. August 1, 2022

Burgos, Alexander N

Subject: FW: [External] RE: Request for changes 12 NCAC 10B .0704

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Tuesday, July 12, 2022 3:59 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 .0704

Thank you for your email.

It does not appear that your response meets the RRC's formatting. <https://www.oah.nc.gov/rules-division/information-rulemaking-coordinators/rule-format-examples>

Specifically, please see "Permanent Amendment w/changes". All changes to a published rule, subsequent to a request change, should be highlighted.

Please resubmit the Rule with proper formatting.

Also, generally, when a question is asked, it is because some ambiguity exists. Simply answering the question without any change to the rule does not necessarily resolve the ambiguity in the Rule. The agency may want to resolve any ambiguity raised.

Thank you.

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

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Burgos, Alexander N

Subject: FW: [External] RE: Request for changes 12 NCAC 10B .0704
Attachments: 12 NCAC 10B .0704changes.docx; Request for Changes Template Sheriffs' Training Comm 12 NCAC 10B .0704.docx

From: Jones, Sirena <Scjones@ncdoj.gov>
Sent: Friday, July 8, 2022 1:31 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 .0704

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Good afternoon.
The changes have been made in the attachment.

Let me know if you have questions.
Thanks



Sirena Jones
Deputy Director
Sheriffs' Standards Division
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Fax: 919-662-4515
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Post Office Box 629, Raleigh, NC 27602-0629
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REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Sheriffs' Education and Training Standards Commission

RULE CITATION: 12 NCAC 10B .0704 Responsibilities: School Directors, Detention
Course Officers

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. 12 NCAC 10B .0704 (a)(3),(4),(5),(6) and particularly (7) appear to cross the line between setting a standard or the basis for certification, and managing the employee of the school.

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

Generally, to the Rule: The agency has the authority to establish standards and certification for schools, programs, courses, and teachers pursuant to G.S. 17E-4. As written, this Rule directs the "school director" to accomplish certain tasks. Explain the agency's authority to so do.

(a) Page 1, Line 6: Consider capitalizing "school director" as the agency has done in some, but not all, rules, and make a reference to Rule .0703(b) as this is an undefined term. Done

(a) (1), (A), Page 1, Line 11: The Rule states "regularly schedule holidays". By whom are these holidays scheduled? The School Director? Or does the agency intend State Holidays pursuant to G.S. 103-4? Yes

(a) (1), (A), Page 1, Line 14: Change "may" to "shall". Done

(a) (1), (A), Page 1, Line 16: "State of Emergency" is capitalized but this is an undefined term. Does the agency intend "pursuant to Chapter 166A of the North Carolina General Statutes"? Yes

(a)(2), Page 1, Line 17: Strike "properly" and consider adding "pursuant to 12 NCAC 10B .0903." Done

(a) (2)(A), Page 1, Line 19 and 20: Consider striking "single" as it appears to be unnecessary. Also consider changing "individual" to "instructor". What does the agency mean by "one delivery"? This is vague. Done

(a) (2)(B), Page 1 Line 21-24: Consider capitalizing "school director" as the agency has done in some, but not all, rules. To whom and how must the school director "show"

William W. Peaslee
Commission Counsel

Date submitted to agency: June 2, 2022

“exceptional or emergency circumstance”? A written explanation of the circumstances must be provided to the Division’s Director. What criteria will be used to determine whether an “exceptional or emergency circumstance” exists? Illness, emergency, accident, or other exceptional circumstances that preclude instructors from fulfilling the teaching requirement (similar language in 10B .0905(f)). How does an instructor become “certified to instruct more than 35 percent of the total hours of the curriculum”? **Removed** Consider replacing “individual” with “35-percent-instructional”. **Fixed**

(a) (3), Page 1, Line 27: Consider citing the rule by which the Commission approved the course outline. What is the “necessary additional information”?

(a) (4), Page 1, Line 29: Does a rule exist requiring the instructor submit a lesson plan and other instructional materials? If so, consider citing it here. **NO**

(a) (5), Page 1, Line 31: What does the agency intend by “appropriate” aids, materials, etc.? **Done** Does the Detention Offices Certification Course Management Guide require certain “topic areas” or aids, materials, etc.? **YES** Consider striking “as” if it does not change the intention of the agency. **Done**

Page 2, Lines 5-7, and (8), Page 2, Line 10: What is a Form F-7A? “Pre-Delivery Report of Training Course Presentation form” What information is required on a Form F-7A? The F-7A includes hours, course end/begin, location, anticipated state exam date, Any information which is required to be submitted must be pursuant to an administrative rule. Please see G.S. 150B-2(8a).

(a) (7), Page 2, Line 8: Please explain why this requirement is reasonably necessary pursuant G.S. 150B-21.9(3) and the agency’s authority to require the school director to so do. Some students travel to attend training, and some training sites have housing facilities. Authority is found in NCGS 17E-4(4)

(a) (8), Page 2, Line 9-11: How should the school director submit the documents? By mail to the address in 12 NCAC 10B .0101? **YES**

(a) (8)(B), Page 2, Line 18: Consider adding “any” between “of” and “deficiency”. **DONE**

(a) (9), Page 2, Line 21: What criteria will be used in determining whether “the training offered is as effective as possible” and who will make the judgement? If this cannot be defined, consider removing this from the Rule. **REMOVED**

(a) (10), Page 2, Line 22-24: Consider a comma after “monitor” and “monitor”. “Probationary instructor” does not appear to be a defined term and is vague. Consider referencing a rule. What criteria will be used to evaluate the probationary instructors’ suitability? **Done**

(a) (10), Page 2, Line 28: This is unclear. The instructor must hold a certification equivalent to who? The School Director? **DONE**

(a) (10), Page 2, Line 29: If the Commission is requiring the use of one of its forms, the contents or substantive requirements of which must be prescribed by rule or statute. Please see G.S. 150B-2(8a)(d). F-16 **Fixed**

William W. Peaslee
Commission Counsel

Date submitted to agency: June 2, 2022

(a) (10), Page 2, Line 30: What criteria shall be considered in determining the school director's recommendation? **Corrected- referenced in 10B .0905**

(a) (10), Page 2, Line 32: "Sufficient" is a vague and ambiguous. **removed**

(a) (10), Page 2, Lines 32 and 33: "Instructional Development Model" is an undefined term and does not appear in 12 NCAC 09B .0209. **Fixed**

(a) (10), Page 2, Line 34: Is "delivery" the instruction provided? What does the agency mean by "objective based"? **It is based on the ISD Model.** What does the agency mean by "documented by" the lesson plan? Does it mean that the instruction/delivery shall be as set forth in the lesson plan?

(a) (10), Page 2, Line 37: Are student evaluations required? **NO** If so, by what rule? Do the evaluations have criteria?

(a) (11), Page 3, Line 1: Consider placing a comma after each "monitor". Is the word "other" necessary?

(a) (11), Page 3, Lines 2-3: What criteria will be used in the evaluations of the instructors? Add an "a" between "holding" and "General". **Done**

(a) (11), Page 3, Line 7: "...holding the equivalent type of certification" to whom? The school director or the limited lecturer. **Fixed**

(a) (11), Page 3, Line 8: If the Commission is requiring the use of one of its forms, the contents or substantive requirements of which must be prescribed by rule or statute. Please see G.S. 150B-2(8a)(d).

(a) (11), Page 3, Line 10-15: "Sufficient" is a vague and ambiguous term. "Instructional Development Model" is an undefined term and does not appear in 12 NCAC 09B .0209. **Fixed**

(a) (11), Page 3, Line 12: Is "delivery" the instruction provided? What does the agency mean by "objective based"? **As referenced by the Instruction Systems Design Model** What does the agency mean by "documented by" the lesson plan? Does it mean that the instruction/delivery shall be as set forth in the lesson plan? **YES**

(a) (11), Page 3, Line 15: Are student evaluations required? **NO** If so, by what rule? Do the evaluations have criteria? **NO**

(a)(13), Page 3, Line 19: "Tests" of whom or what? What do the terms "appropriate", "necessary", and "various intervals" mean? In other words, these are subjective terms. Is there an objective standard understandable by the regulated public? **Removed wording** Is this not part of the lesson plan?

(a)(15), Page 3, Lines 23-26: What is the agency's authority to require a school to make its facilities available for the administration of the Commission's certification test? **Courses are submitted at the training location designated when school directors submit the pre-delivery Form**

William W. Peaslee
Commission Counsel

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is submitted. The state exam is often given at the same location. Authority is found in NCGS 17E-4(4).

(a) (16), Page 3, Lines 27-29: Consider: "Submit to the Commission a Post-Delivery Report of Training Course Presentation (Form 7-B) within ten days of receiving the Commission's Report of Examination Scores." If the Commission is requiring the use of one of its forms, the contents or substantive requirements of which must be prescribed by rule or statute. Please see G.S. 150B-2(8a)(d). DONE

(b), Page 3, Lines 30-33: As written, the school director should be available at all times. Please explain why this is necessary pursuant to G.S. 150B-21.9(a)(3). The School Director is responsible to the delivery of the course. He/she is the point of contact for students, instructors, and Division staff. They should have access to emails and can be reached by telephone during delivery of the 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: June 2, 2022

Permanent Amendment for Publication in the NCAC

1 12 NCAC 10b .0704 Is Amended As Published In Volume 36, Issue 15, Pages 1292-1296 of the North Carolina
2 Public Register as follows:

3
4 **12 NCAC 10B .0704 RESPONSIBILITIES: SCHOOL DIRECTORS, DETENTION OFFICER COURSE**

5 (a) In planning, developing, coordinating, and delivering each commission-certified Detention Officer Certification
6 Course, the ~~school~~ School director ~~Director~~ shall:

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

9 (A) The Detention Officer Certification Course ~~may~~ shall be presented with a minimum of 40
10 hours of instruction each week during consecutive calendar weeks until course
11 requirements are completed, with the exception of weeks in which there are regularly
12 scheduled holidays.

13 (B) In the event of exceptional or emergency circumstances, the Director shall, upon written
14 finding of justification, grant a waiver of the minimum hours requirement.

15 (C) the Director shall allow additional breaks in a specific course delivery when the Director
16 determines that doing so is necessary based on circumstances related to a lawfully declared
17 State of Emergency pursuant to G.S. 166A-19.3(19).

18 (2) Select and schedule instructors who are ~~properly~~ pursuant to 12 NCAC 10B .0903 certified by the
19 Commission. The selecting and scheduling of instructors is subject to special requirements as
20 follows:

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

24 (B) Where the ~~school~~ School director ~~Director~~ shows exceptional or emergency circumstances
25 ~~and the school director documents that an instructor is properly certified to instruct more~~
26 ~~than 35 percent of the total hours of the curriculum,~~ the Director of the Division shall grant
27 written approval for the expansion of the individual instructional limitation.

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

30 (3) Provide each instructor with a commission-approved course outline and all necessary ~~additional~~
31 information concerning the instructor's duties and responsibilities.

32 (4) Review each instructor's lesson plans and other instructional materials for conformance to the rules
33 in this Chapter and to minimize repetition and duplication of subject matter.

34 (5) Arrange for the timely availability of ~~appropriate~~ audiovisual aids and materials, publications,
35 facilities and equipment for training in all topic areas ~~as~~ required in the "Detention Officer
36 Certification Course Management Guide".

- 1 (6) Develop, adopt, reproduce, and distribute any supplemental rules, regulations, and requirements
2 determined by the school to be necessary or appropriate for:
3 (A) Effective course delivery;
4 (B) Establishing responsibilities and obligations of agencies or departments employing course
5 trainees; and
6 (C) Regulating trainee participation and demeanor and ensuring trainee attendance and
7 maintaining performance records.

8 A copy of such rules, regulations and requirements shall be submitted to the Director as an attachment to the
9 Pre-Delivery Report of Training Course Presentation, Form F-7A. A copy of such rules shall also be given to each
10 trainee and to the sheriff of each trainee's employing agency at the time the trainee enrolls in the course.

- 11 (7) If appropriate, recommend housing and dining facilities for trainees.
12 (8) Not less than 30 days before commencing delivery of the course, submit to the Commission a
13 Pre-Delivery Report of Training Course Presentation (Form F-7A) along with the following
14 attachments:
15 (A) A comprehensive course schedule showing arrangement of topical presentations and
16 proposed instructional assignments;
17 (B) A copy of any rules, regulations, and requirements for the school and, when appropriate,
18 completed applications for certification of instructors. The Director shall review the
19 submitted Pre-Delivery Report together with all attachments to ensure that the school is in
20 compliance with all commission rules; if school's rules are found to be in violation, the
21 Director shall notify the school director of any deficiency, and approval shall be withheld
22 until all matters are in compliance with the Commissions' rules.

23 ~~(9) Administer the course delivery in accordance with the rules in this Chapter and ensure that the~~
24 ~~training offered is as effective as possible.~~

25 ~~(10)~~ (9) ~~Monitor~~ Monitor, or designate a certified instructor to ~~monitor~~ monitor, the presentations of all
26 ~~probationary~~ instructors during course delivery and prepare written evaluations on their
27 performance and suitability for subsequent instructional assignments. A person holding General
28 Instructor Certification under the Criminal Justice Education and Training Standards Commission
29 may evaluate instructors teaching any lecture portion of the course. However, if a Limited Lecturer
30 is evaluated during the practical portion of a block of instruction, he/she must be evaluated by either
31 the School Director or another instructor holding the equivalent type of instructor certification.
32 These evaluations shall be prepared on ~~commission forms~~ the Instructor Evaluation form F-16, and
33 forwarded to the Division at the conclusion of each delivery. Based on this evaluation referenced in
34 12 NCAC 10B .0905(B)(1), the school director shall recommend approval or denial of requests for
35 Detention Officer Instructor Certification, Limited Lecturer Certification or Professional Lecturer
36 Certification. The observations shall ~~be of sufficient duration to~~ ensure the instructor is using the

1 Instructional ~~System~~ Systems Development Design model, as taught in Criminal Justice Instructor
2 Training set out in 12 NCAC 09B .0209, and that the delivery is objective based, ~~documented by~~
3 ~~and~~ consistent with a Commission-approved lesson plan. For each topic area, the school director's
4 or designee's evaluation shall be based on the course delivery observations, the instructor's use of
5 the approved lesson plan, and the results of the students evaluations of the instructor.

6 ~~(11)~~(10) Monitor or designate a certified instructor to monitor the presentations of all other instructors during
7 course delivery and prepare written evaluations on their performance and suitability for subsequent
8 instructional assignments. A person holding General Instructor Certification under the Criminal
9 Justice Education and Training Standards Commission may evaluate instructors teaching any lecture
10 portion of the course. However, if a Limited Lecturer is evaluated during the practical portion of a
11 block of instruction, he/she must be evaluated by either the School Director or another instructor
12 holding the equivalent type of instructor certification. Instructor evaluations shall be prepared on
13 ~~commission forms~~ the Instructor Evaluation form F-16, in accordance with the rules in this Chapter.
14 These evaluations shall be kept on file by the school for a period of three years and shall be made
15 available for inspection by a representative of the Commission upon request. The observations shall
16 be of sufficient duration to ensure the instructor is using the Instructional ~~System~~ Systems
17 ~~Development Design~~ model, as taught in Criminal Justice Instructor Training set out in 12 NCAC
18 09B .0209, and that the delivery is objective based, ~~documented by and~~ consistent with a
19 Commission-approved lesson plan. For each topic area, the school director's or designee's evaluation
20 shall be based on the course delivery observations, the instructor's use of the approved lesson plan,
21 and the results of the students evaluations of the instructor.

22 ~~(12)~~(11) Ensure that any designated certified instructor who is evaluating the instructional presentation of
23 another holds certification in the same instructional topic area as that being taught.

24 ~~(13)~~(12) Administer or designate a person to administer ~~appropriate tests as determined necessary~~
25 intervals during course delivery.

26 ~~(14)~~(13) Maintain direct supervision, direction, and control over the performance of all persons to whom any
27 portion of the planning, development, presentation, or administration of a course has been delegated.

28 ~~(15)~~(14) During a delivery of the Detention Officer Certification Course, make available to authorized
29 representatives of the Commission three hours of scheduled class time and classroom facilities for
30 the administration of a written examination to those trainees who have satisfactorily completed all
31 course work.

32 ~~(16)~~(15) ~~Not more than ten days after receiving from the Commission's representative the Report of~~
33 ~~Examination Scores, submit to the Commission a Post-Delivery Report of Training Course~~
34 ~~Presentation (Form 7-B). Submit to the Commission a Post-Delivery Report of Training Course~~
35 ~~Presentation (Form 7-B) within ten days of receiving the Commission's Report of Examination~~
36 ~~Scores.~~

1 (b) In addition to the requirements in 12 NCAC 10B .0704(a), the school director shall be readily available to students
2 and Division staff at all times during course delivery by telephone, pager, or other means. The means, and applicable
3 numbers, shall be filed with the commission-certified training delivery site and the Division prior to the beginning of
4 a scheduled course delivery.

5

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

7 *Eff. January 1, 1989;*

8 *Amended Eff. January 1, 2009; January 1, 2006; January 1, 2005; August 1, 1998; January 1, 1996;*

9 *January 1, 1994; January 1, 1992;*

10 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*
11 *2018.*

12 *Amended Eff. August 1, 2022*

13

14

15

16

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Wednesday, June 22, 2022 3:38 PM
To: Jones, Sirena C <scjones@ncdoj.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: Request for changes 12 NCAC 10B .07.4

Good afternoon, Sirena,

I'm the attorney who reviewed the Temporary Rule submitted by the North Carolina Sheriffs' Education and Training Standards Commission for the July 2022 RRC meeting. The RRC will formally review this Rule at its meeting on Thursday, July 21, 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 Rule and form to me via email, no later than 5 p.m. on Friday, July 8, 2022.

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

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
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