

REQUEST FOR TECHNICAL CHANGE

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09B .0101

DEADLINE FOR RECEIPT: Friday, September 11, 2020

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 call our office to inquire concerning the staff recommendation.

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

The page numbers on the bottom of the pages are off. Please correct.

Did you intend to delete "employed" on line 10? I think so.

In Item (3), do you need the "and" in between "G.S. 17C-10" and "as evidenced?"

In (3)(c), please add a "which is hereby" before "incorporated by reference", add "and can be" before "found", and remove the parenthesis around "found at no cost" and the website.

(3)(d) appears to be addressed by Items (4) and (5). Do you also need it here? If so, please remove any duplicate information.

In (3)(d), please incorporate the certification standards by reference in accordance with G.S. 150B-21.6.

In (3)(d), remove the parenthesis around the website.

In (3)(e), a background investigation by whom? The employing agency? The SBI?

In (3)(h), change "not engage" to "has not engaged" or "not having engaged" to match the rest of this Item.

In (4), I think that there is something missing before "search" – is this not the background check required by (3)(e)? If it's not the background check, how is this different? Who is to obtain this search and who is to conduct it?

In Item (5), what are the necessary physical requirements? Are these set by the employing agency?

In Item (5), delete "properly"

Amber May
Commission Counsel
Date submitted to agency: August 28, 2020

In (5)(a), delete “reliable” and “as may, from time to time” so that it just reads “...other initial and confirmatory tests authorized or mandated...”

In (5)(d), remove the parenthesis surrounding the incorporation language.

Add “and” at the end of (5)(e).

In (5)(f), certified by whom?

In (7), should the required notifications not be their own Item? These appears to be separate and apart from the interview. Please consider doing so.

In (7)(a) change the period to a semicolon at the end of “(DWI)”

In (7)(c), who is responsible for this notification? (7) says the department head or representative, (7)(c) says the officer. If it’s the officer who is supposed to notify the Standards division (in addition to the department head as provided in (7)(e), please consider pulling this out and make into its own Paragraph since (7) speaks specifically to what the department head is responsible for.

In (7)(d), the date what case was disposed of? The DV case? Given (8), is this necessary?

In (7)(e), since you’ve already provided that the department head is responsible for providing these notifications, please say something like “within thirty days of the issuance of all Domestic Violence Protective Orders and Civil No Contact Orders, notify the Standards Division.”

In (7)(e), why have you included “provided he or she has knowledge”, but not included this language for the other offenses set forth in this Item? Perhaps that was intentional, but what if he or she doesn’t have knowledge of a DWI (for example)?

In (8), change “subparagraph” to “Item”

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

Amber May
Commission Counsel
Date submitted to agency: August 28, 2020

1 12 NCAC 09B .0101 is amended with changes as published in 34:19 NCAC 1760-1773 as follows:

2
3 **SUBCHAPTER 09B - STANDARDS FOR CRIMINAL JUSTICE EMPLOYMENT: EDUCATION: AND**
4 **TRAINING**

5
6 **SECTION .0100 - MINIMUM STANDARDS FOR CRIMINAL JUSTICE EMPLOYMENT**

7
8 **12 NCAC 09B .0101 MINIMUM STANDARDS FOR CRIMINAL JUSTICE OFFICERS**

9 Every criminal justice officer who is employed in or has received a conditional offer of employment for a certified
10 position employed by an agency in North Carolina shall:

- 11 (1) be a citizen of the United States;
- 12 (2) be at least 20 years of age;
- 13 (3) be of good moral character pursuant to G.S. 17C-10 and as evidenced by the following:
- 14 (a) not having been convicted of a felony;
- 15 (b) not having been convicted of a misdemeanor as defined in 12 NCAC 09B .0111(1) for five
16 years or the completion of any corrections supervision imposed by the courts, whichever
17 is later;
- 18 (c) not having been convicted of an offense ~~that~~, that would prohibit the possession of a firearm
19 or ammunition, under 18 U.S.C. 922, incorporated by reference with subsequent
20 amendments and editions (found at no cost at (~~http://www.gpo.gov/fdsys/pkg/USCODE-~~
21 ~~2011-title18-partI-chap44-sec922.pdf~~), ([https://www.govinfo.gov/content/pkg/USCODE-](https://www.govinfo.gov/content/pkg/USCODE-2018-title18/pdf/USCODE-2018-title18-partI-chap44.pdf)
22 [2018-title18/pdf/USCODE-2018-title18-partI-chap44.pdf](https://www.govinfo.gov/content/pkg/USCODE-2018-title18/pdf/USCODE-2018-title18-partI-chap44.pdf)); ~~would prohibit the possession~~
23 ~~of a firearm or ammunition~~;
- 24 (d) having submitted to and produced a negative result on a drug test within 60 days of
25 employment or any in-service drug screening required by the appointing agency that meets
26 the certification standards of the Department of Health and Human Services for Federal
27 Workplace Drug Testing Programs. A list of certified drug testing labs that meet this
28 requirement may be obtained, at no cost, at ([https://www.samhsa.gov/programs-](https://www.samhsa.gov/programs-campaigns/drug-free-workplace/guidelines-resources/drug-testing/certified-lab-list)
29 [campaigns/drug-free-workplace/guidelines-resources/drug-testing/certified-lab-list](https://www.samhsa.gov/programs-campaigns/drug-free-workplace/guidelines-resources/drug-testing/certified-lab-list));
- 30 (e) submitting to a background investigation consisting of the verification of age and education
31 and a criminal history check of local, state, and national files;
- 32 (f) being truthful in providing information to the appointing agency and to the Standards
33 Division for the purpose of obtaining probationary or general certification;
- 34 (g) not having pending or outstanding felony charges that, if convicted of such charges, would
35 disqualify the applicant from holding such certification, pursuant to ~~North Carolina~~
36 ~~General Statute~~ G.S. 17C-13; and

- 1 (h) not engage in any conduct that brings into question the truthfulness or credibility of the
2 officer, or involves "moral turpitude." "Moral ~~turpitude~~ Turpitude" is conduct that is
3 contrary to justice, honesty, or morality, including conduct as defined in: In re Willis 288
4 ~~re Willis, 299~~ N.C. 1, 215 S.E. 2d 771 appeal dismissed 423 U.S. 976 (1975); ~~in re~~ State
5 v. Harris, 216 N.C. 746, 6 S.E. 2d 854 (1940); ~~in~~ In re Legg, 325 N.C. 658, 386 S.E. 2d
6 174(1989); in re Applicants for License, 143 N.C. 1, 55 S.E. 635 (1906); ~~in~~ In re
7 Dillingham, 188 N.C. 162, 124 S.E. 130 (1924); State v. Benbow, 309 N.C. 538, 308 S.E.
8 2d 647 (1983); and later court decisions that cite these cases as authority.
- 9 (4) have been fingerprinted and a search made of local, state, and national files to disclose any criminal
10 record;
- 11 (5) have been examined and certified by a licensed surgeon, physician, physician assistant, or nurse
12 practitioner to meet physical requirements necessary to properly fulfill the officer's particular
13 responsibilities and shall have produced a negative result on a drug screen administered according
14 to the following specifications:
- 15 (a) the drug screen shall be a urine test consisting of an initial screening test using an
16 immunoassay method and a confirmatory test on an initial positive result using a gas
17 chromatography/mass spectrometry (GC/MS) or other reliable initial and confirmatory
18 tests as may, from time to time, be authorized or mandated by the Department of Health
19 and Human Services for Federal Workplace Drug Testing Programs;
- 20 (b) a chain of custody shall be maintained on the specimen from collection to the eventual
21 discarding of the specimen;
- 22 (c) the drug screen shall test for the presence of at least cannabis, cocaine, phencyclidine
23 (PCP), opiates, and amphetamines or their metabolites;
- 24 (d) the test threshold values meet the requirements established by the Department of Health
25 and Human Services for Federal Workplace Drug Testing Programs, as found in 82 FR
26 7920 (2017) incorporated by reference, including later amendments and editions (found at
27 no cost at [https://www.federalregister.gov/documents/2017/01/23/2017-](https://www.federalregister.gov/documents/2017/01/23/2017-00979/mandatory-guidelines-for-federal-workplace-drug-testing-programs)
28 [00979/mandatory-guidelines-for-federal-workplace-drug-testing-programs](https://www.federalregister.gov/documents/2017/01/23/2017-00979/mandatory-guidelines-for-federal-workplace-drug-testing-programs));
- 29 (e) the test conducted shall be not more than 60 days old, calculated from the time when the
30 laboratory reports the results to the date of employment;
- 31 (f) the laboratory conducting the test shall be certified for federal workplace drug testing
32 programs, and shall adhere to applicable federal rules, regulations, and guidelines
33 pertaining to the handling, testing, storage, and preservation of samples;
- 34 (6) have been administered a psychological screening examination by a clinical psychologist or
35 psychiatrist licensed to practice in North Carolina or by a clinical psychologist or psychiatrist
36 authorized to practice in accordance with the rules and regulations of the United States Armed

Forces within one year prior to employment by the employing agency to determine the officer's mental and emotional suitability to properly fulfill the responsibilities of the position;

(7) have been interviewed personally by the ~~Department~~ department head or ~~his~~ the department head representative or representatives to determine such things as the applicant's appearance, demeanor, attitude, and ability to ~~communicate;~~ communicate and make the following notifications:

(8) (a) within thirty days of the qualifying event notify the Standards Division and the appointing department head in writing of all criminal offenses that for which the officer is arrested for or charged or arrested. This shall include traffic offenses identified in the Class B Misdemeanor Manual and offenses of driving under the influence (DUI) or driving while impaired (DWI).

(b) within thirty days of the qualifying event notify the Standards Division and the appointing department head in writing of all criminal offenses for which the officer with, pleads no contest to, pleads guilty to or of which the officer is found guilty. guilty of as well as Domestic Violence Orders (50B) that are issued by a judicial official. This shall include all criminal offenses except minor traffic offenses identified in the Class B Misdemeanor Manual and offenses of driving under the influence (DUI) or driving while impaired (DWI); and shall specifically include any offense of Driving Under The Influence (DUI) or Driving While Impaired (DWI). A minor traffic offense is defined, for purposes of this Subparagraph, as an offense for which the maximum punishment allowable by law is 60 days or less. Other offenses under Chapter 20 (Motor Vehicles) of the General Statutes of North Carolina or similar laws of other jurisdictions which shall be reported to the Standards Division expressly include G.S. 20-139 (persons under influence of drugs), G.S. 20-28(b)(driving while license permanently revoked or permanently suspended), and G.S. 20-166 (duty to stop in event of accident). The notifications required under this Subparagraph shall be in writing and shall specify the nature of the offense, the court in which the case was handled, the date of the arrest or criminal charge, the final disposition, and the date thereof. The notifications required under this Subparagraph shall be received by the Standards Division within 30 days of the date of arrest or charge and of case disposition. The requirements of this Subparagraph shall be applicable at all times during which the officer is certified by the Commission and shall also apply to all applicants for certification. Officers required to notify the Standards Division under this Subparagraph shall also make the same notification to their employing or appointing executive officer within 20 days of the date the case was disposed of in court. The executive officer, provided he has knowledge of the officer's arrests or criminal charges and final dispositions, shall also notify the Standards Division of all arrests or criminal charges and final dispositions within 30 days of the date the case was disposed of in court. Receipt by the Standards

1 Division of a single notification, from either the officer or the executive officer, shall be
2 sufficient notice for compliance with this Subparagraph.

3 (c) within thirty days of service, officers shall notify the Standards Division of all Domestic
4 Violence Protective Order (G.S. 50B) and Civil No Contact Orders (G.S. 50C) that are
5 issued by a judicial official against the officer;

6 (d) within thirty days of the date the case was disposed of in court, the department head,
7 provided he or she has knowledge of the officer's arrests or criminal charges and final
8 dispositions, shall also notify the Standards Division of arrests or criminal charges and final
9 disposition;

10 [(c)(d)] within thirty days of the issuance of all Domestic Violence Protective Orders
11 (G.S.50B) and Civil No Contact Orders (G.S.50C), the department head, provided he or
12 she has knowledge of the order, shall also notify the Standards Division of these orders.

13 (8) The required notifications in this Rule shall be in writing and shall specify the nature of the offense
14 or order, the court in which the case was handled, the date of the arrest, criminal charge, or service
15 of the order, and the final disposition. The notification shall include a certified copy of the order or
16 court documentation and final disposition from the Clerk of Court in the county of adjudication. The
17 requirements of this subparagraph shall be applicable at all times during which the officer is
18 employed and certified by the Commission and shall also apply to all applicants for certification.
19 Receipt by the Standards Division of a single notification, from the officer or the department head,
20 shall be sufficient notice for compliance with this subparagraph.

21 ~~[(9) — notify the Standards Division within thirty days of being notified that because of the officer's lack~~
22 ~~of honesty, truthfulness, or credibility, the officer may not testify in court as a law enforcement~~
23 ~~officer. This provision shall apply only to notifications (1) made in writing by a superior court judge,~~
24 ~~district court judge, federal judge, district attorney, assistant district attorney, United States~~
25 ~~Attorney, Assistant United States Attorney, or the officer's department head, or (2) made in open~~
26 ~~court by a superior court judge, district court judge, or federal judge. The officer's notification to~~
27 ~~the Standards Division shall be in writing and shall state who notified the officer that the officer~~
28 ~~may not testify in court as a law enforcement officer and when the officer was so notified. An officer~~
29 ~~required to notify the Standards Division under this subparagraph shall make the same notification~~
30 ~~to his or her department head within thirty days of being notified that he or she may not testify in~~
31 ~~court as a law enforcement officer. A department head who is notified that an officer in his or her~~
32 ~~agency has been notified that the officer may not testify in court as a law enforcement officer shall~~
33 ~~also notify the Standards Division within thirty days of the department head's receipt of such notice.~~
34 ~~Receipt by the Standards Division of a single notification, from either the officer or the department~~
35 ~~head, shall be sufficient notice for compliance with this subparagraph.]~~

36 *History Note: Authority G.S. 17C-6; 17C-10;*
37 *Eff. January 1, 1981;*

1 *Amended Eff. April 1, 2018; October 1, 2017; September 1, 2001; April 1, 1999; January 1, 1995;*
2 *November 1, 1993; July 1, 1990;*
3 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*
4 *2019.*
5 *Amended Eff. October 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09B .0202

DEADLINE FOR RECEIPT: Friday, September 11, 2020

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 call our office to inquire concerning the staff recommendation.

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

In (a)(4), where can the Course Management Guide be found?

In (a)(5), what are the Commission standards? Are these the same as "curriculum standards established in this Subchapter" as provided in (a)(1)?

In (a)(8), what are the "Commission procedures and standards"?

In (a)(9), delete or define "safe" and "effective"

In (a)(10), delete or define "direct"

In (b)(5), delete or define "actively"

In (b)(8), please confirm that the substantive requirements of the F-16 are set forth elsewhere in rule or statute.

Please confirm that the substantive requirements of the forms provided in (b)(10)(A) through (D) are set forth elsewhere in rule or statute.

In (c)(2)(C), delete or define "successful" in "successful participation"

The formatting of (c) and (d) are different in that (c) ends with periods and (d) ends with semi-colons and an "and" Please be consistent where you can.

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

Amber May
Commission Counsel
Date submitted to agency: August 28, 2020

1 12 NCAC 09B .0202 is amended as published in 34:19 NCR 1760-1773 as follows:

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12 NCAC 09B .0202 RESPONSIBILITIES OF THE SCHOOL DIRECTOR

(a) In planning, developing, coordinating, and delivering each Commission-certified criminal justice training course, the School Director shall:

- (1) Formalize and schedule the course curriculum in accordance with the curriculum standards established in this Subchapter;
- (2) Select and schedule instructors who are certified by the Commission;
- (3) Provide each instructor with a current Commission course outline and all necessary additional information concerning the instructor's duties and responsibilities;
- (4) Notify each instructor that he or she shall comply with the Basic Law Enforcement Training Course Management Guide and provide him or her access to the most current version of the Course Management Guide;
- (5) Review each instructor's lesson plans and other instructional materials for conformance to Commission standards and to minimize repetition and duplication of subject matter;
- (6) Arrange for the availability of appropriate audiovisual aids and materials, publications, facilities, and equipment for training in all topic areas;
- (7) Develop, adopt, reproduce, and distribute any supplemental rules 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 or sponsoring course trainees; and
 - (C) regulating trainee participation and demeanor, ensuring trainee attendance, and maintaining performance records;
- (8) If appropriate, recommend housing and dining facilities for trainees;
- (9) Administer the course delivery in accordance with Commission procedures and standards, give consideration to advisory guidelines issued by the Commission, and ensure that the training offered is safe and effective;
- (10) 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. The comprehensive final examination shall be administered by the Criminal Justice Education and Training Standards Commission; and
- (11) Report the completion of each presentation of a Commission-certified criminal justice training course to the Commission.
- (12) All forms required for submission to the Commission are located on the Agency's website: <http://www.ncdoj.gov/About-DOJ/Law-Enforcement-Training-and-Standards/Criminal-Justice-Education-and-Training-Standards/Forms-and-Publications.aspx>.

1 (b) In addition to Paragraph (a) of this Rule, in planning, developing, coordinating, and delivering each Commission-
2 certified Basic Law Enforcement Training Course, the School Director shall:

- 3 (1) Deliver training in accordance with the most current version of the Basic Law Enforcement Training
4 Course Management Guide as published by the North Carolina Justice Academy;
- 5 (2) Schedule course presentation to include 12 hours of instruction each week during consecutive
6 calendar weeks, except that there may be as many as three one-week breaks until course
7 requirements are completed;
- 8 (3) Schedule only specialized instructors certified by the Commission to teach those high-liability areas
9 as specified in Rule .0304(a) of this Subchapter as either the lead instructor or as assistant instructors
10 or role players;
- 11 (4) With the exception of the First Responder, Physical Fitness, Explosives and Hazardous Materials,
12 and topical areas outlined in Rule .0304(a) of this Subchapter, schedule one specialized instructor
13 certified by the Commission for every six trainees while actively engaged in a practical performance
14 exercise;
- 15 (5) Schedule one specialized instructor certified by the Commission for every eight trainees while
16 actively engaged in a practical performance exercise in the topical area "Subject Control Arrest
17 Techniques;"
- 18 (6) Schedule no single individual to instruct more than 35 percent of the total hours of the curriculum
19 during any one delivery of the Basic Law Enforcement Training Course presentation;
- 20 (7) Not less than 30 days before commencing delivery of the Basic Law Enforcement Training Course,
21 submit to the Commission a Pre-Delivery Report of Training Course Presentation pursuant to 12
22 NCAC 09C .0211. The Pre-Delivery Report (Form F-10A) shall indicate a requested date and
23 location for the administration of the state comprehensive exam, and include the following
24 attachments:
 - 25 (A) a course schedule showing the arrangement of topical presentations and proposed
26 instructional assignments; and
 - 27 (B) a copy of any rules and requirements for the school. A copy of such rules shall also be
28 given to each trainee and to the executive officer of each trainee's employing or sponsoring
29 agency or department at the time the trainee enrolls in the course;
- 30 (8) Monitor, or designate an instructor certified by the Commission to monitor, a presentation of each
31 instructor once during each three year certification period in each topic taught by the instructor and
32 prepare a written evaluation on the instructor's performance and suitability for subsequent
33 instructional assignments. The observations shall be of sufficient duration to ensure that the
34 instructor is using the Instructional System Design model, and that the delivery is objective-based,
35 documented by, and consistent with a Commission-approved lesson plan. For each topic area, the
36 School Director's evaluation shall be based upon the course delivery observations, the instructor's
37 use of the approved lesson plan, and the results of the student evaluations of the instructor. For

probationary instructors, the evaluations conducted by another instructor shall be prepared on the Criminal Justice Instructor Evaluation (Form F-16) and forwarded to the Commission. Based on this evaluation, the School Director shall recommend approval or denial of requests for General Instructor Certification. For all other instructors, these evaluations shall be prepared on the Criminal Justice Instructor Evaluation (Form F-16), 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. In the event the evaluation of an instructor indicates that his or her performance was less than acceptable, the School Director shall forward a copy of the evaluation to the Commission. Any instructor who is evaluating the instructional presentation of another instructor shall hold certification in the same instructional topic area as that for which the instructor is being evaluated;

- (9) Administer or designate a staff person to administer appropriate tests during course delivery:
 - (A) to determine and record the level of trainee comprehension and retention of instructional subject- matter;
 - (B) to provide a basis for a final determination or recommendation regarding the minimum degree of knowledge and skill of each trainee to function as an inexperienced law enforcement officer; and
 - (C) to determine subject or topic areas of deficiency for the application of Rule .0405(a)(3) of this Subchapter; and
- (10) Not more than 10 days after the conclusion of a school's offering of Basic Law Enforcement Training, submit to the Commission a Post-Delivery Report of Training Course Presentation (Form F-10B) that shall include:
 - (A) a "Student Course Completion" form for each individual enrolled on the day of orientation;
 - (B) a "Certification and Test Score Release" form;
 - (C) the "Police Officer Physical Ability Test (POPAT) Post-Course" final form; and
 - (D) Orientation class enrollment roster.

(c) In addition to Paragraph (a) of this Rule, in planning, developing, coordinating, and delivering each Commission-certified "Criminal Justice Instructor Training Course," the School Director shall:

- (1) Schedule course presentation to include a minimum of 78 hours of instruction during the time period the class is taught until course requirements are completed.
- (2) Schedule at least one evaluator for each six trainees, as follows:
 - (A) no evaluator shall be assigned more than six trainees during a course delivery;
 - (B) each evaluator, as well as the instructors, shall have completed a Commission-certified instructor training course or an equivalent instructor training course utilizing the Instructional Systems Design model, an international model with applications in education, military training, and private enterprise; and
 - (C) each instructor and evaluator shall document successful participation in a program presented by the North Carolina Justice Academy for purposes of familiarization and

1 supplementation relevant to delivery of the instructor training course and trainee
2 evaluation.

3 (3) Not fewer than 30 days before commencing delivery of the course, submit to the Commission a Pre-
4 Delivery Report of Training Course Presentation [Form F-10A(ITC)]with the following
5 attachments:

6 (A) a course schedule showing the arrangement of topical presentations and proposed
7 instructional assignments;

8 (B) the names and last four digits of the social security numbers of all instructors and
9 evaluators; and

10 (C) a copy of any rules, and requirements for the school; and

11 (4) Not more than 10 days after course completion, submit to the Commission a Post-Delivery Report
12 [Form F-10B(ITC)] containing the following:

13 (A) class enrollment roster;

14 (B) a course schedule with the designation of instructors and evaluators utilized in delivery;

15 (C) scores recorded for each trainee on the 70 minute skill presentation; and

16 (D) designation of trainees who completed the course in its entirety and whom the School
17 Director finds to be competent to instruct.

18 (d) In addition to Paragraph (a) of this Rule, in planning, developing, coordinating, and delivering each Commission-
19 certified RADAR, RADAR and Time-Distance, Time-Distance, or LIDAR speed measurement operator training
20 course or re-certification course, the School Director shall:

21 (1) select and schedule speed measurement instrument instructors who are certified by the Commission
22 as instructors for the specific speed measurement instruments in which the trainees are to receive
23 instruction as follows:

24 (A) provide to the instructor the Commission form(s) for motor skill examination on each
25 trainee;

26 (B) require the instructor to complete the motor skill examination form on each trainee
27 indicating the level of proficiency obtained on each specific instrument; and

28 (C) require each instructor to sign each individual form and submit the original to the School
29 Director;

30 (2) not fewer than 30 days before the scheduled starting date, submit to the Director of the Standards
31 Division a Pre-Delivery Report of Speed Measuring Instrument Course Presentation [Form F-10A
32 (SMI)] that shall contain a period of course delivery including the proposed starting date, course
33 location, requested date and location for the administration of the state exam, and the number of
34 trainees to be trained on each type of approved speed measurement instrument. The Director of the
35 Standards Division shall review the request and notify the School Director within thirty business
36 days if the request is approved or denied; and

1 (3) upon completing delivery of the Commission-certified course, and not more than 10 days after the
2 conclusion of a school's offering of a certified RADAR, RADAR and Time-Distance, Time-
3 Distance, or LIDAR speed measurement operator training course or re-certification course, the
4 School Director shall notify the Commission regarding the progress and achievements of each
5 trainee by submitting a Post-Delivery Report of Training Course Presentation [Form F-10B (SMI)].
6 This report shall include the original motor-skill examination form(s) completed and signed by the
7 certified instructor responsible for administering the motor-skill examination to the respective
8 trainee.

9
10 *History Note:* *Authority G.S. 17C-6;*
11 *Eff. January 1, 1981;*
12 *Amended Eff. November 1, 1981;*
13 *Readopted w/change Eff. July 1, 1982;*
14 *Amended Eff. January 1, 2015; June 1, 2013; April 1, 2009; November 1, 2007; January 1, 2006;*
15 *May 1, 2004; August 1, 2000; January 1, 1996; November 1, 1993; December 1, 1987; January 1,*
16 *1985;*
17 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*
18 *2019.*
19 *Amended Eff. January 1, 2021.*

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REQUEST FOR TECHNICAL CHANGE

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09B .0209

DEADLINE FOR RECEIPT: Friday, September 11, 2020

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

What is the difference between this and 09G .0414? I assume that they apply to different kinds of instructors? Please make it clear within the body of the Rule.

In (a), just to be sure that I understand, these 90 hours of instruction must be entirely completed within 15 consecutive week days?

In (a), change "subsection" to "Paragraph(c) of this Rule"

In Paragraph (d), why have you removed the option to complete (c)(3), (4), and (5) within 60 days prior? I'm concerned that this is a substantial change.

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

Amber May
Commission Counsel
Date submitted to agency: August 28, 2020

12 NCAC 09B .0209 is amended with changes as published in 34:19 NCR 1760-1773 as follows

12 NCAC 09B .0209 CRIMINAL JUSTICE INSTRUCTOR TRAINING

(a) The ~~instructor training~~ Instructor Training course required for ~~general instructor~~ General Instructor certification shall consist of a minimum of ~~78~~ 90 hours of instruction, as defined in subsection (c), within a 15-day period. ~~hours of instruction presented during a continuous period of not more than two weeks.~~ [instructions.]

(b) Each ~~instructor training~~ Instructor Training course shall be designed to provide the trainee with the skills and knowledge to perform the ~~function~~ functions of a criminal justice instructor.

(c) Each ~~instructor training~~ Instructor Training course shall include the following identified topic areas and minimum instructional hours for each area:

(1)	Orientation and Pre-Test	<u>34</u> Hours
(2)	Instructional Systems Design (ISD)	<u>68</u> Hours
(3)	Law Enforcement Instructor Liabilities and Legal Responsibilities	3 Hours
(4)	Criminal Justice Instructional Leadership	4 Hours
(5)	Lesson Plan Preparation: Professional Resources	3 Hours
(6)	Lesson Plan Development and Formatting	4 Hours
(7)	Adult Learning	<u>64</u> Hours
(8)	Instructional Styles and Platform Skills	<u>58</u> Hours
(9)	Classroom Management	<u>34</u> Hours
(10)	Active Learning: Demonstration and Practical Exercises	<u>68</u> Hours
(11)	The Evaluation Process of Learning	<u>45</u> Hours
(12)	Audio Visual Aids	<u>46</u> Hours
(13)	Student 8-Minute Introductions and Video Critique	5 Hours
(14)	Student Performance: First 35-Minute Presentation	6 Hours
	Second 35-Minute Presentation	6 Hours
	Final 70-Minute Presentation and Review	8 Hours
(15)	Course Closing and Post-test	<u>24</u> Hours

~~[(d) The Instructor Course shall be completed in one of the following two methods:~~

~~—— (1) Completion of all topics specified in Paragraph (c) of this Rule within a fifteen day period; or~~

~~—— (2) individual may complete topics contained in Paragraph (c)(3), (c)(4), and (c)(5) of this Rule by either in person or online delivery via a Commission accredited delivery site within 60 days prior to the delivery of topics specified in paragraph (c)(1), (c)(2), and (c)(6) thru (c)(15) of this Rule.]~~

~~(d) [(d)(e)]~~ The "Instructor Training" manual published by the North Carolina Justice Academy shall be the curriculum for instructor training courses. Copies of this publication may be inspected at the agency:

Criminal Justice Standards Division
North Carolina Department of Justice
1700 Tryon Park Drive

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Post Office Drawer 149
Raleigh, North Carolina 27602
North Carolina Justice Academy
Post Office Drawer 99
Salemberg, North Carolina 28385

and may be purchased at the cost of printing and postage from the Academy at the following address:

*History Note: Authority G.S. 17C-6;
Eff. January 1, 1981;
Amended Eff. July 1, 2018; April 1, 2018; January 1, 2018; January 1, 2015; December 1, 2009;
August 1, 2005; November 1, 1998; January 1, 1995; March 1, 1990; July 1, 1989; January 1,
1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,
2019.
January 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09B .0301

DEADLINE FOR RECEIPT: Friday, September 11, 2020

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 call our office to inquire concerning the staff recommendation.

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

This Rule has some formatting issues. Some of these will be corrected by using the version of the Rules that OAH sent to you when you published.

In (b), please change "section" back to what you had in the Code as "Section."

In (c), required by the Commission in accordance with what?

In (d), change "rules" and "subchapter" to "Rules" and "Subchapter"

In (e)(3), capitalize "rules"

In (e)(3), change "subchapter;" to "Subchapter;"

In (e)(4), change "rule" back to "Rule" and "subchapter;" back to "Subchapter;"

In (e)(5), put "unprofessional personal conduct" on line 36-37 in quotations.

In (e)(5)(b), change "12 NCAC 09G .0504" to "Rule .0504 of this Section;"

In (e)(5)(c), capitalize "rules" and "chapter"

In (e)(5)(e), change "and/or" to either "and" or "or"

In (e)(6), delete "is an instructor, School Director, or Qualified Assistant;" Alternatively change your semi-colon to an "and"

In (e)(6), is the language in the parenthesis necessary? If not, please delete it. If so, please remove the parenthesis.

In (e)(6), what is considered to be a "close personal, familial, financial, dating or sexual relationship"? This is ambiguous as written.

Amber May
Commission Counsel
Date submitted to agency: August 28, 2020

In (e)(6), delete or define "immediate"

Please change (e)(6)(a) and (b) to (e)(6)(A) and (B).

Please begin (e)(6)(A)(i) through (vi) and (B)(i) through (vii) with lower case letters.

In (e)(6)(a)(v), please change "personnel, and;" to "personnel; and"

In (e)(6)(B) and (e)(6)(A)(i) and (B)(i), how does the agency come into play here? I don't see any agency requirements nor applicability in (e)(6)?

In (e)(7), how is "instructional incompetence" determined and by whom?

In (e)(12), change "which" to "that"

In (f), remove the semi-colon after "licensing agency"

In (f), if you all revoke or deny certification or you suspend or revoke the certification, then they have to report it to y'all?

In (f), change "5" back to "five"

Please also provide some introductory language to Subparagraphs (f)(1) through (3). Perhaps add something like "in accordance with the following" after "certification"

Please begin (f)(1) through (3) with lower case letters; change the periods at the end to semi-colons; and add an "and" at the end of (f)(2).

In (f)(1) change "12 NCAC 09B .0304" to "Rule .0304 of this Subchapter"

In (f)(2), capitalize "rule" also, change "Section" to "Subchapter"

In (f)(3), change "12 NCAC 09B .0303(b)" to "Paragraph (b) of Rule .0303 of this Subchapter"

In (f)(3), delete "immediate"

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

Amber May
Commission Counsel
Date submitted to agency: August 28, 2020

1 12 NCAC 09B .0301 is amended as published in 34:19 NCR 1760-1773 as follows:
2

3 **SECTION .0300 - MINIMUM STANDARDS FOR CRIMINAL JUSTICE INSTRUCTORS**
4

5 **12 NCAC 09B .0301 CERTIFICATION OF INSTRUCTORS**

6 (a) A person participating in a Commission-certified criminal justice training course or program as an instructor,
7 teacher, professor, lecturer, or other participant making presentations to the class shall first be certified by the
8 Commission as an instructor.

9 (b) The Commission shall certify instructors under the following categories: General Instructor Certification,
10 Specialized Instructor Certification, or Professional Lecturer Certification as outlined in Rules .0302, .0304 and 0306
11 of this ~~section. Section~~. Instructor certification shall be granted on the basis of documented qualifications of
12 experience, education, and training in accordance with the requirements of this ~~section Section~~ and as stated on the
13 applicant's Request for Instructor Certification Form.

14 (c) In addition to all other requirements of this Section, each instructor certified by the Commission to teach in a
15 Commission-certified course shall remain competent in his or her specialized areas. Such competence shall include
16 remaining current in the instructor's area of expertise, which shall be demonstrated by attending and completing all
17 updated instructor training courses required by the Commission.

18 (d) If a person certified as an instructor by the Commission is found to have knowingly and willfully violated any
19 provision or requirement of the rules in this ~~subchapter, Subchapter~~, the Commission shall take action to correct the
20 violation and to ensure that the violation does not recur, including:

- 21 (1) issuing an oral warning and request for compliance;
- 22 (2) issuing a written warning and request for compliance;
- 23 (3) issuing an official written reprimand;
- 24 (4) suspending the individual's certification for a specified period of time or until acceptable corrective
25 action is taken by the individual; and
- 26 (5) revoking the individual's certification.

27 (e) The Commission shall deny, suspend, or revoke an instructor's certification when the Commission finds that the
28 person:

- 29 (1) has failed to meet and maintain any of the requirements for qualification;
- 30 (2) has failed to remain competent in the person's areas of expertise;
- 31 (3) has failed to deliver training in a manner consistent with the instructor lesson plans outlined in the
32 "Instructor Training Manual" as found in ~~rule Rule~~ .0209 of this ~~subchapter; Subchapter~~;
- 33 (4) has failed to follow specific guidelines outlined in the "Basic Law Enforcement Training Course
34 Management Guide" as found in ~~rule Rule~~ .0205 of this ~~subchapter; Subchapter~~;
- 35 (5) has demonstrated unprofessional personal conduct in the delivery of Commission approved or
36 mandated ~~Commission mandated~~ training. For the purposes of this Subparagraph, unprofessional
37 personal conduct is identified as: means an act that is: job related conduct that constitutes a violation

1 ~~of State or federal law; conviction or commission of a criminal offense, as set out in 12 NCAC 09A~~
 2 ~~.0204; the willful violation of Rules of this Chapter; conduct that is detrimental to instruction in the~~
 3 ~~Commission's mandated courses; the abuse of a client or student whom the instructor is teaching or~~
 4 ~~supervising or falsification of an instructor application or in other employment documentation. For~~
 5 ~~purposes of this Chapter, conduct is "detrimental to instruction" if the conduct is demeaning or~~
 6 ~~disruptive to the learning environment, thus impeding the students' ability to learn;~~

7 (a) job-related conduct that constitutes a violation of state or federal law;

8 (b) a conviction or commission of a criminal offense, as set out in 12 NCAC 09A.0204;

9 (c) the willful violation of rules of this chapter;

10 (d) conduct that is detrimental to instruction in the Commission's mandated courses.

11 Conduct is "detrimental to instruction" if the conduct is demeaning or disruptive to the
 12 learning environment;

13 (e) the physical and/or verbal abuse of a client or student who the instructor is teaching or
 14 supervising; or

15 (f) falsification of an instructor application or other employment documentation;

16 (6) is an instructor, School Director, or Qualified Assistant; is involved in the instruction of (for
 17 instructors) or oversight of (for School Directors and Qualified Assistants) a student with whom the
 18 instructor, School Director, or Qualified Assistant has a close personal, familial, financial, dating,
 19 or sexual relationship, even if consensual; and fails to take immediate and appropriate corrective
 20 action. Appropriate corrective action requires the instructor, School Director, or Qualified Assistant
 21 to notify his or her managing personnel in writing of the relationship and requires the instructor,
 22 School Director, or Qualified Assistant to stop instructing or overseeing the student with whom the
 23 relationship exists;

24 (a) the written notice to managing personnel shall include:

25 (i) School/agency name;

26 (ii) Name of course;

27 (iii) Name of the instructor, School Director, or Qualified Assistant;

28 (iv) Name of student;

29 (v) Name of managing personnel, and;

30 (vi) Nature of the relationship;

31 (b) the written notice from the school/agency managing personnel to the Standards
 32 Division shall be submitted within ten days of receipt of notice from the instructor, School
 33 Director, or Qualified Assistant and shall include:

34 (i) School/agency name;

35 (ii) Name of course;

36 (iii) Name of the instructor, School Director, or Qualified Assistant;

37 (iv) Name of student;

1 (v) Name of managing personnel:

2 (vi) Nature of the relationship, and:

3 (vii) Explanation of action taken to ensure the named instructor, School Director,
4 or Qualified Assistant is not in violation of this Rule:

5 ~~(7)(6)~~ has demonstrated instructional incompetence;

6 ~~(8)(7)~~ has knowingly and willfully obtained or attempted to obtain instructor certification by deceit, fraud,
7 or misrepresentation;

8 ~~(9)(8)~~ has failed to meet or ~~involve moral turpitude~~ maintain good moral character as defined in: In re
9 Willis, 288 N.C. 1, 215 S.E.2d 771, appeal ~~dismissed~~ dismissed, 423 U.S. 976 (1975); State v.
10 Harris, 216 N.C. 746, 6 S.E.2d 854 (1940); In re Legg, 325 N.C. 658, 386 S.E. 2d 174 (1989); In re
11 Applicants for License, 143 N.C. 1, 55 S.E. 635 (1906); In re Dillingham, 188 N.C. 162, 124 S.E.
12 130 (1924); State v. Benbow, 309 N.C. 538, 308 S.E.2d 647 (1983); and later court decisions that
13 cite these cases as authority, and as required to discharge the duties of a criminal justice instructor;

14 ~~(10)(9)~~ has failed to deliver training in a manner consistent with the Qualified Retired Law Enforcement
15 Officers Firearms Qualification Certification Program as found in 12 NCAC 09H .0102;

16 ~~(11)(10)~~ has knowingly and willfully aided or attempted to aid any person in obtaining qualification or
17 certification under the Qualified Retired Law Enforcement Officers Firearms Qualification
18 Certification Program by deceit, fraud, or misrepresentation;

19 ~~(12)(11)~~ has committed or been convicted of an offense which could result in the denial, suspension, or
20 revocation of an officer's law enforcement certification, pursuant to 12 NCAC 09G .0504; or

21 ~~(13)(12)~~ has knowingly made a material misrepresentation of any information required for certification or
22 accreditation.

23 (f) When a person certified as a law enforcement officer by the North Carolina Criminal Justice Education and
24 Training Standards Commission (Commission), the North Carolina Sheriffs Education and Training Standards
25 Commission (Sheriffs' Commission), the North Carolina Department of Insurance, Office of State Fire Marshal, Fire
26 Rescue Commission (Fire Commission), Office of Emergency Medical Services North Carolina Company/Campus
27 Police Program; or a North Carolina, out of state or federal approving, certifying or licensing agency; has been denied
28 certification or had his or her certification suspended or revoked by their respective Commission, or agency the State
29 or local law enforcement officer shall report the suspension or revocation to the Criminal Justice Standards Division
30 within ~~five~~ 5 days. He or she shall also have his or her General Instructor Certification (if applicable) automatically
31 suspended or revoked for the same time period as his or her respective Commission certification.

32 (1) This suspension or revocation of the General Instructor certification shall also include suspension
33 or revocation to any Commission recognized ~~Specialized~~ specialized or additional instructor
34 certification, as outlined in 12 NCAC 09B .0304.

35 (2) If the term of suspension or revocation exceeds the expiration date of the instructor's initial
36 certification expiration date, he or she shall forfeit their certifications as a General Instructor and
37 Specialized Instructor and shall be required to obtain certification pursuant to the requirements of

1 ~~rule~~ ~~Rule~~ .0302 of this ~~section~~ ~~Section~~ before any instruction may be delivered in any Commission-
2 approved or mandated training, including the completion of a subsequent General Instructor's
3 training course in its entirety.

- 4 (3) If the term of suspension or revocation does not exceed the expiration date of the instructor's initial
5 certification expiration date, the instructor shall be reinstated as a General Instructor only upon
6 reinstatement of his or her law enforcement officer certification by the Commission. The terms of
7 renewal for the existing General Instructor and Specialized Instructor certifications shall remain
8 subject to all renewal requirements pursuant to 12 NCAC 09B .0303(d) by the next immediate
9 expiration date.

10
11 *History Note:* *Authority G.S. 17C-6;*
12 *Eff. January 1, 1981;*
13 *Amended Eff. December 1, 2018; October 1, 2017; October 1, 2009; August 1, 2004; April 1, 1999;*
14 *July 1, 1991; January 1, 1985;*
15 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*
16 *2019;*
17 *Amended Eff. October 1, 2020; August 1, 2019.*
18

REQUEST FOR TECHNICAL CHANGE

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09B .0410

DEADLINE FOR RECEIPT: Friday, September 11, 2020

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 call our office to inquire concerning the staff recommendation.

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

In (a)(1), delete or define "satisfactorily"

In (a)(1), change the comma to a semi-colon at the end of "Academy"

In (a)(2), what is the "passing score"? Is this set by you or by the Justice Academy?

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

Amber May
Commission Counsel
Date submitted to agency: August 28, 2020

1 12 NCAC 09B .0410 is proposed for amendment as follows:

2

3 **12 NCAC 09B .0410 CRIMINAL JUSTICE INSTRUCTOR TRAINING COURSE**

4 (a) To successfully complete the "Criminal Justice Instructor Training Course" the trainee shall:

5 (1) satisfactorily complete all of the required ~~coursework, specifically including each of the introductory~~
6 ~~trainee presentations with video taping, playback, and critique as specified in the "Instructor~~
7 ~~Training Manual" as published by the North Carolina Justice Academy.~~ course work pursuant to 12
8 NCAC 09B .0209. All trainee presentations shall have met the criteria and conditions specified in
9 the course orientation of the "Instructor Training ~~Manual;"~~ Manual as published by the North
10 Carolina Justice Academy." and

11 (2) attain the passing score on each performance area as specified in the course abstract of the
12 "Instructor Manual" for the final written lesson plan and final 70-minute presentation.

13 (b) Should a trainee fail to meet the minimum criteria on the final lesson plan or the final 70-minute presentation, he
14 or she shall be authorized one opportunity to correct either of these deficiencies by the end of the ~~original two week~~
15 ~~course.~~

16

17 *History Note: Authority G.S. 17C-6; 17C-10;*

18 *Eff. January 1, 1985;*

19 *Amended Eff. January 1, 2018; January 1, 1995; February 1, 1987;*

20 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*
21 *2019.*

22 *Amended Eff. January 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09G .0302

DEADLINE FOR RECEIPT: Friday, September 11, 2020

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 call our office to inquire concerning the staff recommendation.

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

Please reorganize this Rule into three separate paragraphs. Paragraph (a) for the what the officer is to report (Items (1) through (3)); Paragraph (b) for what the department head is to report (Items (4) and (5)); and Paragraph (c) how (lines 35-4 on page 2.)

In Item (1), should "changed" on line 9 should be "charged"?

In Item (4), what is meant by "the case"?

On line 4, page 2, change "subparagraph" to "this Rule"

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

Amber May
Commission Counsel
Date submitted to agency: August 28, 2020

1 12 NCAC 09G .0302 is amended as published in 34:19 NCR 1760-1773 as follows:

2
3 **12 NCAC 09G .0302 NOTIFICATION OF CRIMINAL CHARGES/CONVICTIONS**

4 ~~(a) Every person employed and certified as a correctional officer or probation/parole officer shall make the following~~
5 ~~notifications: notify the Standards Division of all criminal offenses for which the officer is charged, arrested, pleads~~
6 ~~no contest, pleads guilty, or of which the officer is found guilty. Criminal offenses shall include all felony offenses~~
7 ~~and shall include those misdemeanor offenses delineated in 12 NCAC 09G .0102.~~

8 (1) within thirty days of the qualifying event notify the Standards Division and the appointing department
9 head in writing of all criminal offenses for which the officer is charged or arrested;

10 (2) within thirty days of the qualifying event notify the Standards Division and the appointing department
11 head in writing of all criminal offenses for which the officer pleads no contest, pleads guilty, or of which the
12 officer is found guilty. This shall include traffic offenses identified in the Class B Misdemeanor Manual and
13 offenses of driving under the influence (DUI) or driving while impaired (DWI);

14 (3) within thirty days of service, officers shall notify the Standards Division of all Domestic Violence
15 Protective Order (G.S. 50B) and Civil No Contact Orders (G.S. 50C) that are issued by a judicial official
16 against the officer;

17 ~~(b) The notifications required under this Rule shall be in writing, specify the nature of the offense, the court in which~~
18 ~~the case was handled, the date of arrest or criminal charge, the final disposition, and the date thereof. The notifications~~
19 ~~required under this Paragraph shall be received by the Standards Division within 30 days of the date the case was~~
20 ~~disposed of in court.~~

21 ~~(c) The requirements of this Rule shall be applicable at all times during which the officer is certified by the~~
22 ~~Commission.~~

23 ~~(d) Officers required to notify the Standards Division under this Rule shall also make the same notification to their~~
24 ~~employing or appointing executive officer within 20 days of the date the case was disposed of in court. The executive~~
25 ~~officer, provided he or she has knowledge of the officer's arrest(s), criminal charge(s), or final disposition(s), shall~~
26 ~~also notify the Standards Division of all arrests or criminal convictions within 30 days of the date of the arrest and~~
27 ~~within 30 days of the date the case was disposed of in court. Receipt by the Standards Division of a single notification,~~
28 ~~from either the officer or the executive officer, shall be sufficient notice for compliance with this Rule.~~

29 (4) within thirty days of the date the case was disposed of in court, the department head, provided he or she
30 has knowledge of the officer's arrests or criminal charges and final dispositions, shall also notify the Standards
31 Division of arrests or criminal charges and final disposition; and

32 (5) within thirty days of the issuance of a Domestic Violence Protective Orders (G.S. 50B) and Civil No
33 Contact Orders (G.S. 50C), the department head, provided he or she has knowledge of the order, shall also
34 notify the Standards Division of these orders.

35 The required notifications in this Rule shall be in writing and shall specify the nature of the offense or order, the court
36 in which the case was handled, the date of the arrest, criminal charge, or service of the order, and the final disposition.
37 The notification shall include a certified copy of the order or court documentation and final disposition from the Clerk

1 of Court in the county of adjudication. The requirements of this subparagraph shall be applicable at all times during
2 which the officer is employed and certified by the Commission and shall also apply to all applicants for certification.
3 Receipt by the Standards Division of a single notification, from the officer or the department head, shall be sufficient
4 notice for compliance with this subparagraph.

5 *History Note: Authority G.S. 17C-6;*
6 *Temporary Adoption Eff. January 1, 2001;*
7 *Eff. August 1, 2002;*
8 *Amended Eff. January 1, 2015; August 1, 2004;*
9 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*
10 *2019.*
11 *Amended Eff. October 01, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09G .0307

DEADLINE FOR RECEIPT: Friday, September 11, 2020

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 call our office to inquire concerning the staff recommendation.

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

This Rule has some formatting issues. Some of these will be corrected by using the version of the Rules that OAH sent to you when you published.

In (b), add a comma after "General Instructor Certification" and delete the "or"

In (b), please change "in, rules" and "section" back to what you had in the Code of "in Rules" and "Section."

In (c), please change "section" back to "Section," as was originally in the Code.

In (c), change "his/her" to "his or her"

In (c), required by the Commission in accordance with what?

In (d), change "rules" and "subchapter" back to "Rules" and "Subchapter"

In (e)(2), capitalize "rules" in "the rules"

In (e)(2), change "chapter." to "Chapter;" Also, should this be Subchapter?

In (e)(3), change "12 NCAC 09G .0414" to "Rule .0414 of this Subchapter"

In (e)(4), change "rules" back to "Rules"; "through," back to "through" and "subchapter;" back to "Subchapter;"

In (e)(5), change "subparagraph," back to "Subparagraph,"

In (e)(5), put "unprofessional personal conduct" on line 36 in quotations.

In (e)(5)(b), change "12 NCAC 09G .0504" to "Rule .0504 of this Subchapter;"

Amber May
Commission Counsel
Date submitted to agency: August 28, 2020

In (e)(5)(c), capitalize “rules” and “chapter”

In (e)(5)(e), change “and/or” to either “and” or “or”

In (e)(6), delete “is an instructor, School Director, or Qualified Assistant;” Alternatively change your semi-colon to an “and”

In (e)(6), is the language in the parenthesis necessary? If not, please delete it. If so, please remove the parenthesis.

In (e)(6), what is considered to be a “close personal, familial, financial, dating or sexual relationship”? This is ambiguous as written.

In (e)(6), delete or define “immediate”

Please change (e)(6)(a) and (b) to (e)(6)(A) and (B).

Please begin (e)(6)(A)(i) through (vi) and (B)(i) through (vii) with lower case letters.

In (e)(6)(a)(v), please change “personnel, and;” to “personnel; and”

In (e)(6)(B) and (e)(6)(A)(i) and (B)(i), how does the agency come into play here? I don’t see any agency requirements nor applicability in (e)(6)?

In (e)(6)(B)(vii) change “this rule” to “this Rule”

In (e)(7), how is “instructional incompetence” determined and by whom?

In (e)(10), change “which” to “that”

In (f), remove the semi-colon after “licensing agency”

In (f), if you all revoke or deny certification or you suspend or revoke the certification, then they have to report it to y’all?

In (f), change “5” back to “five.”

In (f), change “They shall also have their” to “The General Instructor certification shall be suspended or revoked for the same time period as his or her respective Commission certification in accordance with the following:”

If you choose not to use the suggestion above, please change “their” to “his or her.” Please also provide some introductory language to Subparagraphs (f)(1) through (3).

Please begin (f)(1) through (3) with lower case letters; change the periods at the end to semi-colons; and add an “and” at the end of (f)(2).

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

Amber May
Commission Counsel

Date submitted to agency: August 28, 2020

1 12 NCAC 09G .0307 is amended with changes as published in 34:19 NCR 1760-1773 as follows:

2
3 **12 NCAC 09G .0307 CERTIFICATION OF INSTRUCTORS**

4 (a) A person participating in a Commission-accredited corrections training course or program as an instructor, teacher,
5 professor, lecturer, or other participant making presentations to the class shall first be certified by the Commission as
6 an instructor.

7 (b) The Commission shall certify instructors under the following categories: General Instructor Certification or
8 Specialized Instructor Certification or Professional Lecturer Certification as outlined in, rules in Rules-.0308, .0310,
9 and .0311 of this ~~Section~~ section Instructor certification shall be granted on the basis of documented qualifications of
10 experience, education, and training in accord with the requirements of this Section and as stated on the applicant's
11 Request for Instructor Certification Form.

12 (c) In addition to all other requirements of this ~~Section~~ section each instructor certified by the Commission to teach
13 in a Commission-certified course shall remain competent in his/her specific or specialty areas. Such competence
14 includes remaining current in the instructor's area of expertise, which may be demonstrated by attending and
15 completing any instructor all updated instructor training courses required by the Commission.

16 (d) If a person certified as an instructor by the Commission is found to have knowingly and willfully violated any
17 provision or requirement of the ~~Rules~~ rules in this ~~Subchapter~~ subchapter, the Commission shall take action to correct
18 the violation and to ensure that the violation does not recur, including:

- 19 (1) issuing an oral warning and request for compliance;
- 20 (2) issuing a written warning and request for compliance;
- 21 (3) issuing an official written reprimand;
- 22 (4) suspending the individual's certification for a specified period of time or until acceptable corrective
23 action is taken by the individual; or
- 24 (5) revoking the individual's certification.

25 (e) The Commission shall deny, suspend, or revoke an instructor's certification when the Commission finds that the
26 person:

- 27 (1) has failed to meet and maintain any of the requirements for qualification;
- 28 (2) has failed to remain currently knowledgeable in the person's areas of expertise by failing to attend
29 trainings as required by the rules in this ~~Chapter~~ chapter;
- 30 (3) has failed to deliver training in a manner consistent with the instructor lesson plans outlined in the
31 "Basic Instructor Training Manual" as found in 12 NCAC 09G.0414;
- 32 (4) has failed to follow specific guidelines outlined in the basic corrections officers' training manual set
33 out in ~~Rules~~ rules .0411 ~~through~~ through .0416 of this ~~Subchapter~~ subchapter;
- 34 (5) has demonstrated unprofessional personal conduct in the delivery of ~~commission mandated~~
35 Commission approved or mandated training. For the purposes of this ~~Subparagraph~~ subparagraph,
36 unprofessional personal conduct ~~means an act that is~~ is identified as: job-related conduct which
37 ~~constitutes a violation of State or federal law; conviction or commission of a criminal offense, as set~~

~~out in 12 NCAC 09G .0504; the willful violation of Rules of this Chapter; conduct that is detrimental to instruction in the Commission's mandated courses; the abuse of a client or student whom the instructor is teaching or supervising; falsification of an instructor application or in other employment documentation;~~

(a) job-related conduct that constitutes a violation of state or federal law;

(b) conviction or commission of a criminal offense as set out in 12 NCAC 09G. 0504;

(c) the willful violation of rules of this chapter;

(d) conduct that is detrimental to instruction in the Commission's mandated courses. For purposes of this Chapter, conduct is "detrimental to instruction" if the conduct is demeaning or disruptive to the learning environment; [environment, thus impeding the students' ability to learn;]

(e) the physical and/or verbal abuse of a client or student who the instructor is teaching or supervising; or

(f) falsification of an instructor application or other employment documentation;

(6) is an instructor, School Director, or Qualified Assistant; is involved in the instruction of (for instructors) or oversight of (for School Directors and Qualified Assistants) a student with whom the instructor, School Director, or Qualified Assistant has a close personal, familial, financial, dating, or sexual relationship, even if consensual; and fails to take immediate and appropriate corrective action. Appropriate corrective action requires the instructor, School Director, or Qualified Assistant to notify his or her managing personnel in writing of the relationship and requires the instructor, School Director, or Qualified Assistant to stop instructing or overseeing the student with whom the relationship exists:

(a) the written notice to managing personnel shall include:

(i) School/agency name;

(ii) Name of course;

(iii) Name of the instructor, School Director, or Qualified Assistant;

(iv) Name of student;

(v) Name of managing personnel, and;

(vi) Nature of the relationship.

(b) the written notice from the school/agency managing personnel to the Standards Division shall be submitted within ten days of receipt of notice from the instructor, School Director, or Qualified Assistant and shall include:

(i) School/agency name;

(ii) Name of course;

(iii) Name of the instructor, School Director, or Qualified Assistant;

(iv) Name of student;

(v) Name of managing personnel;

1 (vi) Nature of the relationship, and;

2 (vii) Explanation of action taken to ensure the named instructor, School Director,
3 or Qualified Assistant is not in violation of this rule;

4 ~~(6)~~ (7) has demonstrated instructional incompetence;

5 ~~(7)~~(8) has knowingly and willfully obtained, or attempted to obtain instructor certification by deceit, fraud,
6 or misrepresentation;

7 ~~(8)~~ (9) has failed to meet or maintain good moral character as defined in: In re Willis, 288 N.C. 1, 215
8 S.E.2d 771, appeal ~~dismissed~~ dismissed, 423 U.S. 976 (1975); State v. Harris, 216 N.C. 746, 6
9 S.E.2d 854 (1940); In re Legg, 325 N.C. 658, 386 S.E. 2d 174 (1989); In re Applicants for License,
10 143 N.C. 1, 55 S.E. 635 (1906); In re Dillingham, 188 N.C. 162, 124 S.E. 130 (1924); State v.
11 Benbow, 309 N.C. 538, 308 S.E.2d 647 (1983); and later court decisions that cite these cases as
12 authority, and as required to discharge the duties of a criminal justice instructor;

13 ~~(9)~~ (10) has committed or been convicted of an offense which could result in the denial, suspension, or
14 revocation of an officers certification pursuant to Rules .0204 or .0504 of this ~~Subchapter;~~
15 subchapter;

16 ~~(10)~~(11) has knowingly made a material misrepresentation of any information required for certification or
17 accreditation.

18 (f) When a person certified as an officer by the North Carolina Criminal Justice Education and Training Standards
19 Commission (Commission), the North Carolina Sheriffs Education and Training Standards Commission (Sheriffs'
20 Commission), the North Carolina Department of Insurance, Office of State Fire Marshal, Fire Rescue Commission
21 (Fire Commission), Office of Emergency Medical Services and the North Carolina Company/Campus Police Program;
22 or a similar North Carolina, out of state or federal approving, certifying or licensing agency; has been denied
23 certification or had his or her certification suspended or revoked by their respective Commission or agency the officer
24 shall report the suspension or revocation to the Criminal Justice Standards Division within ~~five~~ 5 days. They shall also
25 have their General Instructor certification (if applicable) automatically suspended or revoked for the same time period
26 as their respective Commission certification.

27 (1) This suspension or revocation of the General Instructor certification shall also include suspension
28 or revocation to any Commission recognized ~~Specialized~~ specialized or additional instructor
29 certification, as outlined in Rule .0310 of this Section.

30 (2) If the term of suspension or revocation exceeds the expiration date of the instructor's initial
31 certification expiration date, they shall forfeit their certifications as a General Instructor and
32 Specialized Instructor and shall be required to obtain certification pursuant to the requirements of
33 Rule .0304 of this Section before any instruction may be delivered in any Commission-approved or
34 mandated training, including the completion of a subsequent General Instructor's training course in
35 its entirety.

36 (3) If the term of suspension or revocation does not exceed the expiration date of the instructor's initial
37 certification expiration date, the instructor shall be reinstated as a General Instructor only upon

1 reinstatement of his or her law enforcement officer certification by the Commission. The terms of
2 renewal for the existing General Instructor and Specialized Instructor certifications shall remain
3 subject to all renewal requirements pursuant to Rule .0309(c) of this Section by the next expiration
4 date.

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6 *History Note: Authority G.S. 17C-6; 17C-10;*
7 *Temporary Adoption Eff. January 1, 2001;*
8 *Eff. August 1, 2002;*
9 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*
10 *2019;*
11 *Amended Eff. October 1, 2020, August 1, 2019.*
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REQUEST FOR TECHNICAL CHANGE

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09G .0313

DEADLINE FOR RECEIPT: Friday, September 11, 2020

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 call our office to inquire concerning the staff recommendation.

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

In (a)(1), delete or define "satisfactorily"

In (a)(1), add a period at the end of .0209.

Add "and" at the end of (a)(1).

In (a)(2), what is the "passing score"? Is this set by you or by the Justice Academy?

Change the semi-colon to a period and delete the "and" at the end of (a)(2).

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

Amber May
Commission Counsel
Date submitted to agency: August 28, 2020

1 12 NCAC 09G .0313 is amended with changes as published in 34:19 NCR 1760-1773 as follows:

2

3 **12 NCAC 09G .0313 CORRECTIONS INSTRUCTOR TRAINING COURSE**

4 (a) To successfully complete Corrections Instructor Training, the trainee shall:

5 (1) satisfactorily complete all of the required course ~~work, specifically including each of the trainee~~
6 ~~presentations with videotaping, playback, and critique as specified~~ work pursuant to 12 NCAC 09B
7 .0209 in the "Basic Instructor Training Manual" as published by the North Carolina Justice
8 ~~Academy.~~ All trainee presentations shall have met the criteria and conditions specified in the course
9 orientation of the ~~"Basic Instructor Training Manual;"~~ "Instructor Training Manual, as published by
10 the North Carolina Justice Academy;"

11 (2) attain the passing the minimum score on each performance area as specified in the course abstract
12 of the ~~"Basic Instructor Manual"~~ Instructor Training Manual for the final written lesson plan and
13 final ~~80-minute~~ 70-minute presentation; and

14 (3) ~~achieve a score of 75 percent correct answers on the comprehensive written examination.~~

15 (b) If a trainee fails to meet the minimum criteria on the final lesson plan or the final 70-minute presentation, he or
16 she shall be authorized one opportunity to correct either of these deficiencies by the end of the ~~original two week~~
17 course.

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19 *History Note: Authority G.S. 17C-6;*
20 *Temporary Adoption Eff. January 1, 2001;*
21 *Eff. January 1, 2018; August 1, 2002;*
22 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*
23 *2019.*
24 *Amended Eff. January 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09B .0414

DEADLINE FOR RECEIPT: Friday, September 11, 2020

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 call our office to inquire concerning the staff recommendation.

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

What is the difference between this and 02B .0209? I assume that they apply to different kinds of instructors? Please make it clear within the body of the Rule.

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

Amber May
Commission Counsel
Date submitted to agency: August 28, 2020

1 12 NCAC 09G .0414 is amended with changes as published in 34:19 NRC 1760-1773 follows:

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12 NCAC 09G .0414 INSTRUCTOR TRAINING

(a) The ~~instructor training~~ Instructor Training course required for ~~general instructor~~ General Instructor certification shall consist of a minimum of ~~78~~ 90 hours of ~~instruction presented during a continuous period of not more than two weeks.~~ [instruction]. of instruction as defined in 12 NCAC 09B .0209 (c) to be completed within a 15 day period.

(b) Each ~~instructor training~~ Instructor Training course shall be designed to provide the trainee with the skills and knowledge to perform the ~~function~~ functions of a criminal justice instructor.

~~(c) Each instructor training [Instructor Training] course shall include the following identified topic areas [areas, delivery methods,] and minimum instructional hours for each area: [pursuant to 12 NCAC 09B .0209 (c) and (d).]~~

- ~~(1) Orientation and Pre test; 3 hours~~
- ~~(2) Instructional Systems Design (ISD); 6 hours~~
- ~~(3) Law Enforcement Instructor Liabilities and Legal Responsibilities; 3 hours~~
- ~~(4) Criminal Justice Instructional Leadership 4 hours~~
- ~~(5) Lesson Plan Preparation: Professional Resources; 3 hours~~
- ~~(6) Lesson Plan Development and Formatting 4 hours~~
- ~~(7) Adult Learning; 6 hours~~
- ~~(8) Instructional Style and Platform Skills; 5 hours~~
- ~~(9) Classroom Management; 3 hours~~
- ~~(10) Active Learning: Demonstration and Practical Exercises; 6 hours~~
- ~~(11) The Evaluation Process of Learning; 4 hours~~
- ~~(12) Principles of Instruction: Audio Visual Aids; 4 hours~~
- ~~(13) Student 8 Minute Introduction and Video Critique; and 5 hours~~
- ~~(14) Student Performance:

 - ~~First 35 Minute Presentation; 6 hours~~
 - ~~Second 35 Minute Presentation; and 6 hours~~
 - ~~Final 70 Minute Presentation and Review; 8 hours~~~~
- ~~(15) Course Closing and Post Test 2 hours~~

~~(c) (d)~~ The "Instructor Training Manual" published by the North Carolina Justice Academy shall be applied as the basic curriculum for instructor training courses. Copies of this publication may be inspected at the agency:

Criminal Justice Standards Division
North Carolina Department of Justice
1700 Tryon Park Drive Post Office Drawer 149
Raleigh, North Carolina 27602

and may be purchased at the cost of printing and postage from the North Carolina Justice Academy at the following address:

North Carolina Justice Academy

Post Office Drawer 99
Salemberg, North Carolina 28385

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*History Note: Authority G.S. 17C-6;
Temporary Adoption Eff. January 1, 2001;
Eff. August 1, 2002;
Amended Eff. July 1, 2018; April 1, 2018; January 1, 2018; January 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,
2019.
January 1, 2021.*