12NCAC 10B .0205 Period of Suspension: Revocation or Denial

Public Hearing
July 26, 2022 @ 9:00am
1700 Tryon Park Drive
Raleigh, NC  27610

Instructions for Oral and Written Comments
The public comment period begins on July 16th and ends at 5:00 p.m. on August 30, 2022. Public comments shall be in writing and shall be directed to:

Sirena Jones
North Carolina Department of Justice
Sheriffs’ Education and Training Standards Division
Post Office Box 629
Raleigh, NC  27602-0629

“Public Comment” is defined by NCGS 150B-21.3A(a)(5) as a written objection to all or part of a rule. Additionally, pursuant to NCGS 150B-21.3A(c)(2), in order for the Rules Review Commission to determine whether the public comment has merit, the public comment must address the specific substance of the rule and address any of the standards of Commission review, as set forth in NCGS 150B-21.9(a).

***If approved, this change would become effective January 1, 2023***
Procedure for Subjecting a Proposed Rule to Legislative Review:

If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

***Statutory Authority for Proposed Rules Changes by the Sheriffs’ Commission is found in NCGS 17E***
12 NCAC 10B .0205 is proposed to be amended as follows:

12 NCAC 10B .0205 PERIOD OF SUSPENSION: REVOCATION: OR DENIAL

When the Commission suspends, revokes, or denies the certification of a justice officer, the period of sanction shall be:

(1) permanent where the cause of sanction is:
   (a) commission or conviction of a felony;
   (b) commission or conviction of a crime for which authorized punishment included imprisonment for more than two years; or
   (c) the second revocation, suspension, or denial of an officer's certification for any of the causes requiring a five-year period of revocation, suspension, or denial as set out in Item (2) of this Rule.

(2) not less than five years where the cause of sanction is:
   (a) commission or conviction of offenses as specified in 12 NCAC 10B .0204(d)(1);
   (b) material misrepresentation of any information required for certification or accreditation from the Commission or the North Carolina Criminal Justice Education and Training Standards Commission;
   (c) knowingly and designedly by any means of false pretense, deception, fraud, misrepresentation or cheating whatsoever, obtained or attempted to obtain credit, training or certification from the Commission or the North Carolina Criminal Justice Education and Training Standards Commission;
   (d) knowingly and designedly by any means of false pretense, deception, fraud, misrepresentation or cheating whatsoever, aiding another in obtaining or attempting to obtain credit, training, or certification from the Commission or the North Carolina Criminal Justice Education and Training Standards Commission. This Sub-Item also applies to obtaining or attempting to obtain credit for in-service training as required by 12 NCAC 10B .1700, .1800, .2000, or .2100;
   (e) failure to make either of the notifications as required by 12 NCAC 10B .0301(a)(7); 12 NCAC 10B .0301(13)
   (f) removal from office under the provisions of G.S. 128-16 or the provisions of G.S. 14-230; or
   (g) a positive result on a drug screen, or a refusal to submit to drug testing as required by the rules in this Chapter or the rules of the Criminal Justice Education and Training Standards Commission or has refused to submit to an in-service drug screen pursuant to the guidelines set forth in the Drug Screening Implementation Guide as required by the employing agency through which the officer is certified.
The Commission may either reduce or suspend the periods of sanction under this Item or substitute a period of probation in lieu of revocation, suspension or denial following an administrative hearing. This authority to reduce or suspend the period of sanction may be utilized by the Commission when extenuating circumstances brought out at the administrative hearing warrant such a reduction or suspension.

(3) for an indefinite period, but continuing so long as the stated deficiency, infraction, or impairment continues to exist, where the cause of sanction is:

(a) failure to meet or satisfy relevant basic training requirements;
(b) failure to meet or maintain the minimum standards of employment or certification;
(c) failure to meet or satisfy the in-service training requirements as prescribed in 12 NCAC 10B .2000 or .2100 or 12 NCAC 09E .0100;
(d) commission or conviction of offenses as specified in 12 NCAC 10B .0204(d)(2), (3), (4) and (5); or
(e) denial, suspension, or revocation of certification pursuant to 12 NCAC 10B .0204(c)(5).

The Commission may either reduce or suspend the periods of sanction where revocation, denial or suspension of certification is based upon the Subparagraphs set out in 12 NCAC 10B .0204(d) or substitute a period of probation in lieu of revocation, suspension or denial following an administrative hearing. This authority to reduce or suspend the period of sanction may be utilized by the Commission when extenuating circumstances brought out at the administrative hearing warrant such a reduction or suspension.