12NCAC 10B .0301 Minimum Standards for Justice Officers

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 .0301 is proposed to be amended as follows:

12 NCAC 10B .0301 MINIMUM STANDARDS FOR JUSTICE OFFICERS

(a) Every Justice Officer employed or certified in North Carolina shall:

1. be a citizen of the United States;
2. be at least 20 years of age for all deputies and detention officers; and at least 18 years of age for all telecommunicators;
3. be a high school graduate, or the equivalent (GED); as defined in 12 NCAC 10B .0302;
4. have been fingerprinted by the employing agency, in the manner provided in 12 NCAC 10B .0303;
5. have had a medical examination as required by 12 NCAC 10B .0304;
6. have produced a negative result on a drug screen administered according to the following specifications; as described in 12 NCAC 10B .0410:
   (A) the drug screen shall be a urine test consisting of an initial screening test using an immunoassay method and a confirmatory test on an initial positive result using a gas chromatography/mass spectrometry (GC/MS) or other initial and confirmatory tests as may be authorized or mandated by the Department of Health and Human Services for Federal Workplace Drug Testing Programs [https://www.samhsa.gov/workplace];
   (B) a chain of custody shall be maintained on the specimen from collection to the eventual discarding of the specimen;
   (C) the drugs whose use shall be tested for shall include cannabis, cocaine, phenycyclidine (PCP), opiates, and amphetamines or their metabolites;
   (D) the test threshold values established by the Department of Health and Human Services for Federal Workplace Drug Testing Programs are incorporated by reference, including subsequent amendments and editions. Copies of this information may be obtained from the National Institute on Drug Abuse, 5600 Fisher Lane, Rockville, Maryland 20857 [http://www.drugabuse.gov/] at no cost;
   (E) the test results shall be dated no more than 60 days before employment or appointment, whichever is earlier;
   (F) the laboratory conducting the test shall be certified for federal workplace drug testing programs, and shall adhere to applicable federal rules, regulations, and guidelines pertaining to the handling, testing, storage, and preservation of samples; and
   (G) each drug test laboratory report shall be reviewed by a medical review officer (MRO), who shall be a licensed physician;
7. make the following notifications:
   (A) within five business days, notify the Standards Division and the appointing department head in writing of all criminal offenses with which the officer is charged. This shall include all criminal offenses except minor traffic offenses. A minor traffic offense means any offense under G.S. 20 or similar laws of other jurisdictions; except those Chapter 20
offenses defined as either a Class A or B Misdemeanor in 12 NCAC 10B .0103(10). The initial notification required must specify the nature of the offense, the date of offense, and the arresting agency. Within five business days, notify the Standards Division of all Domestic Violence Orders (G.S. 50B) and Civil No Contact Orders (G.S. 50C) that are issued by a judicial official against the justice officer and that provide an opportunity for both parties to be present;

(B) within 20 days of the date the case was disposed, notify the appointing department head of the adjudication of these criminal charges, Domestic Violence Orders (G.S. 50B), and Civil No Contact Orders (G.S. 50C). The department head, provided he or she has knowledge of the officer's charges, Domestic Violence Orders (G.S. 50B), and Civil No Contact Orders (G.S. 50C), shall also notify the Division within 30 days of the date the case or order was disposed of in court;

(C) within 30 days of the date the case was disposed, notify the Standards Division of the adjudication of these criminal charges, Domestic Violence Orders (G.S. 50B), and Civil No Contact Orders (G.S. 50C);

(D) the required notifications of adjudication shall specify the nature of the offense, the court in which the case was handled, and the date of disposition and shall include a certified copy of the final disposition from the Clerk of Court in the county of adjudication;

(E) receipt by the Standards Division of timely notification of the initial offenses charged and of adjudication of those offenses, from either the officer or the department head, shall be sufficient notice for compliance with this Subparagraph;

(7) have been administered a psychological screening examination as described by G.S. 17E-7. This psychological screening examination shall be valid for a period of one year from the date on which it was administered;

(8) be of good moral character as defined in: In re Willis, 288 N.C. 1, 215 S.E.2d 771 (1975), appeal dismissed 423 U.S. 976 (1975); State v. 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 Applicants for License, 143 N.C. 1, 55 S.E. 635 (1906); In re Dillingham, 188 N.C. 162, 124 S.E. 130 (1924); State v. Benbow, 309 N.C. 538, 308 S.E.2d 647 (1983); and later court decisions that cite these cases as authority;

(8) have been interviewed as described in 12 NCAC 10B .0306;

(9) have a background investigation conducted by the employing agency agency, including a personal interview prior to employment as required by Rules .0305 and .0306 of this Section, as required by 12 NCAC 10B .0305;

(10) not have committed or been convicted of a crime or crimes specified in 12 NCAC 10B .0307;

(11) for personnel who are authorized to carry a firearm in the execution of their duties, satisfactorily complete the employing agency's in-service firearms training program as prescribed in 12 NCAC 10B .2103 and .2104. Such firearms training compliance must have occurred prior to submission of
the application for appointment to the Commission and must be completed using the agency
approved service handgun(s) and any other weapons(s) that the applicant has been issued or
authorized to use by the agency;

(12) be of good moral character as defined in: In re Willis, 288 N.C. 1, 215 S.E.2d 771 (1975), appeal
dismissed 423 U.S. 976 (1975); State v. 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 Applicants for License, 143 N.C. 1, 55 S.E. 635 (1906); In
re Dillingham, 188 N.C. 162, 124 S.E. 130 (1924); State v. Benbow, 309 N.C. 538, 308 S.E.2d 647
(1983); and later court decisions.

(13) make the following notifications:

(a) within five business days of the qualifying event, notify the Standards Division and the
    appointing agency head in writing of all criminal offenses for which the officer is 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 five business days of the qualifying event notify the Standards Division and the
    appointing agency head in writing of all criminal offenses for which the officer pleads no
    contest, pleads guilty, or of which the officer is found guilty. 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);

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

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

(e) within five business days of the issuance of all Domestic Violence Protective Orders (G.S.
    50B) and Civil No Contact Orders (G.S. 50C), the agency head, provided he or she has
    knowledge of the order, shall also notify the Standards Division of these orders.

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

(b)(14) The requirements of this Rule shall apply to all applications for certification and shall also apply at all times during which the justice officer is certified by the Commission.

History Note: Authority G.S. 17E-7;
Eff. January 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018;