

**NORTH CAROLINA SHERIFFS' EDUCATION AND TRAINING
STANDARDS COMMISSION**



12 NCAC 10B .0408 Verification of Records to Division

Public Hearing

May 14, 2024 @ 9:00am
1700 Tryon Park Drive
Raleigh, NC 27610

Instructions for Oral and Written Comments

The public comment period begins on April 15, 2024 and ends at 5:00 p.m. on June 14, 2024. Public comments shall be in writing and shall be directed to:

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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 August 1, 2024*****

1 12 NCAC 10B .0408 is proposed for amendment as follows:
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3 **12 NCAC 10B .0408 VERIFICATION OF RECORDS TO DIVISION**

4 (a) Prior to issuing certification of each justice officer, for the purpose of verifying compliance with these Rules, the
5 employing agency shall submit to the Division, along with the Report of Appointment (F-4), the following documents:

- 6 (1) documentation consisting of diplomas, school transcripts, or certificates from the educational
7 institution attended by the applicant confirming the applicant's compliance with the educational
8 requirement pursuant to Rule .0302(a) of this Subchapter;
- 9 (2) certified copy of the applicant's Oath of Office, if applying for certification as a deputy sheriff;
- 10 (3) the applicant's Medical History Statement (F-1);
- 11 (4) the applicant's Medical Examination Report (F-2 and F-2A);
- 12 (5) the applicant's ~~unredacted Psychological Screening Examination as required by G.S. 17E 7;~~
13 Psychological Screening Examination form (F-2C);
- 14 (6) the applicant's notarized Personal History Statement (F-3);
- 15 (7) the Commission-mandated Background Investigation Form (F-8) with all accompanying
16 documentation set out in Rule .0305 of this Subchapter;
- 17 (8) documentation of negative results on a drug screen pursuant to Rule .0301(6) of this Subchapter;
18 and
- 19 (9) documentation of the applicant's compliance with the probationary certification requirements
20 pursuant to Rule .0403(b) of this Section, if the applicant is a deputy sheriff or a detention officer
21 and is authorized by the agency to carry a firearm.

22 (b) Compliance with this Rule is waived, with the exception of the requirements of Subparagraph (a)(9) of this Rule
23 for officers applying for dual certification as defined in Rule .0103(9) of this Subchapter provided that:

- 24 (1) the officer holds a valid certification issued by this Commission as either a deputy sheriff, detention
25 officer, or telecommunicator, with the employing agency requesting dual certification; and
- 26 (2) the officer has continuously been employed as a justice officer with the agency.

27 (c) Where the Division has previously received a complete Background Investigation Form (F-8) with all
28 accompanying documentation set out in Rule .0305 of this Subchapter in connection with another application for
29 certification to this Commission, the Background Investigation need only be updated from the date of the last
30 background investigation on file in the Division with documentation of compliance with Subparagraphs (f)(1), (2),
31 and (3) of this Rule, and a certified criminal record check from each jurisdiction in which the person has resided in
32 and for each name the applicant has used since the initial Background Investigation (Form F-8) was completed. The
33 criminal record check shall be from the Clerk of Court, a law enforcement agency within the jurisdiction, or other
34 governmental entity that maintains or has access to criminal records for the jurisdiction. The criminal record check
35 shall be certified by the entity providing the record with either a raised seal or other visible verification that the
36 document is an authentic copy. In addition:

- 1 (1) if the applicant has been issued an out-of-state driver's license by a state other than North Carolina
2 since obtaining certification, then compliance with Subparagraph (f)(4) of this Rule, is required; and
3 (2) if the applicant has resided in a state other than North Carolina since obtaining certification, a
4 certified criminal record check from each jurisdiction shall be provided, if available. The criminal
5 record check shall be from the Clerk of Court, a law enforcement agency within the jurisdiction, or
6 other governmental entity that maintains or has access to criminal records for the jurisdiction. The
7 criminal record check shall be certified by the entity providing the record with either a raised seal
8 or other visible verification that the document is an authentic copy.

9 (d) If the Personal History Statement (F-3) required in Subparagraph (a)(6) of this Rule was completed more than 120
10 days prior to the applicant's date of appointment, the Personal History Statement (F-3) shall be updated by the
11 applicant, who shall initial and date all changes, or a new Personal History Statement (F-3) shall be completed.

12 (e) If the Mandated Background Investigation Form (F-8) required in Subparagraph (a)(7) of this Rule was completed
13 more than 120 days prior to the applicant's date of appointment, the Mandated Background Investigation Form (F-8)
14 shall be updated by the background investigator who shall initial and date all changes or a new Mandated Background
15 Investigation Form (F-8), must be completed.

16 (f) The Background Investigation Form (F-8) shall have the following records checks attached to it when submitted:

- 17 (1) a Statewide search of the Administrative Office of the Courts (AOC) computerized system;
18 (2) the national criminal record database accessible through the Division of Criminal Information (DCI)
19 network;
20 (3) the North Carolina Division of Motor Vehicles, if the applicant has ever possessed a driver's license
21 issued in North Carolina;
22 (4) an out-of-state motor vehicles check obtained through the Division of Criminal Information or
23 obtained through another state's division of motor vehicles agency for any state in which the
24 applicant held a license within the 10 year period prior to the date of appointment; and
25 (5) the applicant's Administrative Office of the Courts' AOC-CR-280 form as set forth in Rule .0305 of
26 this Subchapter.

27 (g) The Background Investigation shall include records checks from jurisdictions where the applicant resided within
28 the 10 year period prior to the date of appointment and where the applicant attended high school, as follows:

- 29 (1) where the applicant resided in jurisdictions in North Carolina, Clerk of Court records checks shall
30 be acceptable;
31 (2) where the applicant resided in another country:
32 (A) an Interpol records check shall be acceptable provided the country is a member of Interpol;
33 (B) if the applicant was in the United States military, a military records check shall be
34 acceptable; or
35 (C) if neither an Interpol or United States military record check are available, subject to the
36 limits of United States and North Carolina law, the employing agency shall make a good
37 faith effort to obtain a records check from the national law enforcement authority, judicial

1 authority, or other governmental entity charged with maintaining criminal records for the
2 country where the applicant resided and submit the record check if available. If the
3 employing agency cannot obtain the records check it shall submit documentation consisting
4 of the correspondence with the foreign governmental entity and a written report from the
5 assigned background investigator explaining the employing agency's efforts to obtain the
6 record and why the record could not be obtained. The following steps are required to show
7 a good faith effort to obtain the record check:

- 8 (i) contacting and requesting the record from the foreign governmental entity or
9 entities the employing agency believes are likely to possess the records by mail,
10 telegram, telephone, facsimile or electronic mail;
- 11 (ii) if referred to another foreign governmental entity, contacting and requesting the
12 record from that foreign governmental entity; and
- 13 (iii) if requested, providing and submitting any formal requests, forms, or
14 documentation required by the foreign governmental entity before it will provide
15 the record check;

- 16 (3) where the applicant resided in a state other than North Carolina, a records check through the Division
17 of Criminal Information using the Out-of-State Computer Name Query (IQ) shall be acceptable
18 provided the state will respond to an Out-of-State Computer Name Query. If not, then either a
19 records check response from both the municipality, city, or town where the applicant resided and
20 the county-wide Sheriff's Office or Police Department obtained by mail, telegram, facsimile, or
21 electronic mail, or a records check from the county-wide or state-wide record holding agency shall
22 be acceptable.

23 (h) If the applicant had prior military service, the Background Investigation shall also include a copy of the applicant's
24 DD214, Certificate of Release from Active Duty, that shows the characterization of discharge for each discharge that
25 occurred and military discipline received, if any. If the DD214 indicates a discharge characterization of any type other
26 than Honorable, then a military records check shall also be required.

27 (i) All records checks shall be performed on each name by which the applicant for certification has ever been known
28 since the age of 12. If the applicant has had an official name change that occurred after the applicant had reached the
29 age of 12 years of age, then a copy of the legal document effecting the name change with either a raised seal or other
30 visible verification that the document is an authentic copy from the governmental entity that issued the document or
31 is charged with maintaining the record of the document shall be submitted by the employing agency.

32 (j) The employing agency shall forward to the Division certified copies of any criminal charges and dispositions
33 known to the agency or listed on the applicant's Personal History Statement (F-3). The employing agency shall identify
34 any charges or other violations on the records checks required in Paragraph (f) of this Rule that are for individuals
35 other than the applicant for certification and explain why the employing agency believes another individual is
36 responsible for the charge or violation.

1 *History Note: Authority G.S. 17E-4; 17E-7;*
2 *Eff. January 1, 1989;*
3 *Recodified from 12 NCAC 10B .0407 Eff. January 1, 1991;*
4 *Amended Eff. January 1, 1996; January 1, 1994; January 1, 1993; January 1, 1992;*
5 *Temporary Amendment Eff. March 1, 1998;*
6 *Amended Eff. August 1, 2002; August 1, 1998;*
7 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*
8 *2018;*
9 *Amended Eff. August 1, 2024; February 1, 2024; December 1, 2023; April 1, 2023; February 1,*
10 *2023; January 1, 2023.*

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