

MINUTES

North Carolina Criminal Justice Education and Training Standards Commission

Planning and Standards Committee

May 13, 2020

The Planning & Standards (P&S) Committee of the North Carolina Criminal Justice Education and Training Standards (CJETS) Commission met via conference call Wednesday, May 13, 2020, at 10:00 am.

Committee Members Present

Commissioner Leslie Dismukes (Chair), Commissioner Robert Hassell, Commissioner Richard Epley, Commissioner David Rose, Commissioner Andrew Hendry, Commissioner Cerelyn Davis, Commissioner Stella Patterson, Commissioner Teresa Jardon, Commissioner Andrew Gregson, and Commissioner Stan Hicks.

Guests Present

Director Trevor Allen, NCJA, Richard Barrett, NCJA, Commissioner Tracy McPherson, NC Community Colleges, Commissioner Steve Johnson, Commissioner Eddie Caldwell, Mr. Thomas Forrest, Pitt Community College, Commissioner Stephanie Freeman, Ms. Monica Shabo, NCDPS/DACJJ, Chief David Hess, Roxboro Police Department, Ronda Raney, Raleigh Police Department, Brenda Revera, Legal Staff, Teia Poulin, Cary Police Department, Thomas Everett, Wake Forest Police Department, Scott Shoaf, Lexington Police Department, Terry Clanton, Guilford Tech CC, Jeremy Henry, Winston-Salem Police Department and Mr. Kevin Wallace, CJ Standards.

Criminal Justice Standards Staff Present

Director Steven Combs, Deputy Director Michelle Schilling, Deputy Director Richard Squires, Charminique Williams, Alex Radford, and Donna Byrd.

Call to Order

Committee Chairman Leslie Dismukes called the meeting to order and declared a quorum.

Approval of Minutes

<p>Motion to approve the February 20, 2020 committee minutes was made by Commissioner Teresa Jardon, seconded by Commissioner Richard Epley. Motion carried.</p>
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Requests for Rulemaking Authority

There were no requests for Rulemaking Authority at this time.

Rulemaking Hearing

The Committee conducted a public rulemaking hearing on two sets of rules. The first were emergency rules that had been previously approved by the full Commission to address SMI re-certification during the COVID-19 emergency, which now needs to be formally codified in the Administrative Code. The second set of rules were for rulemaking hearing in the regular course. The Committee conducted a rulemaking hearing on the following rules:

12 NCAC 09B .0310 – Terms and Conditions – SMI Instructors

The Committee voted to recommend adoption of the proposed changes to the rule. New Subsection (c) allows the Director to grant an extension of time for SMI Instructors to attend an SMI Instructor Re-Certification Course on a one-time basis and for good cause. This would not extend certification, rather, it allows for a grace period to obtain re-certification without having to start the process over. Commissioner Patterson made a motion to adopt those changes, and Commissioner Hassell seconded it. The motion carried.

12 NCAC 09B .0409 – Satisfaction of Training – SMI Operators

The Committee voted to recommend adoption of the proposed changes to the rule. New subsection (a)(5) allows the Director to grant an extension of time for SMI Operators to complete their supervised field practice on a one-time basis and for good cause. As with the above, this is not an extension of certification. Commissioner Hicks made a motion to adopt those changes and seconded by Commissioner Jardon. The motion carried.

12 NCAC 09C .0308 – Speed Measurement Instrument (SMI) Operators Certification Program

The Committee voted to recommend adoption of the proposed changes to the rule. The language was added to subsection (d) that allows the Director to grant an extension of time for SMI Operators to attend a re-certification course on a one-time basis and for a good cause. The current rule requires that the SMI Operators attend a re-certification course before their certification expires. Commissioner Hassell voted to approve the motion to adopt the changes and seconded by Commissioner Davis. The motion carried.

Rules considered in the regular course:

12 NCAC 09B .0205 – Period of Suspension: Revocation: or Denial

The Committee considered the adoption of the proposed changes to the rule. New subsection (b)(9) adds the ability to grant a lesser sanction for conviction or commission of offenses specified in 09B .0111(1)(d) – four or more crimes or unlawful acts which are Class A misdemeanors. A motion to adopt the changes was made by Commissioner Epley and seconded by Commissioner Jardon. The motion carried.

12 NCAC 09B .0101 – Minimum Standards for Criminal Justice Officers

The Committee did not conduct rulemaking to this rule. The addition of subsection (9) to the rule deals with the procedure for reporting credibility issues to the Standards Division. As this is a topic that is likely to generate a significant amount of discussion, the Committee felt that it would be better to conduct the rulemaking hearing at the August Commission meeting when we can hopefully meet in person. A motion by Commissioner Hicks to table the rulemaking hearing for this rule was made and seconded by Commissioner Davis. This rule was tabled.

12 NCAC 09B .0202 – Responsibilities of the School Director

The Committee voted to recommend adoption of the proposed changes to the rule. Subsection (b)(7) was changed from 15 days to 30 days for pre-delivery BLET submissions to the Commission. This change is consistent with other pre-delivery deadlines in the code for instructor training and SMI. Subsection (c)(1) was changed from 40 hours per week to 78 total hours, which is consistent with the total number of hours of instruction in the current rule. A motion was made to make the changes by Commissioner Hassell and seconded by Commissioner Patterson. The motion carried.

12 NCAC 09B .0203 – Admission of trainees

The Committee originally considered this rule to streamline the process of providing record checks in advance of BLET in order to improve efficiency and cost for applicants and schools. The statute was reorganized to make it more understandable and less redundant. Subsection (h) was revised to describe the types of record checks that are acceptable and what documents must be provided are as followed:

- (h)(1) – “Criminal Record Conviction History for B.L.E.T. Enrollment” from a department head
- (h)(2) – certified criminal record check for state and local records
- (h)(3) – for trainees who have only ever lived in North Carolina, a “Right to Review” conducted by the SBI
- (h)(4) – for trainees who have lived outside North Carolina while an adult, a “Right to Review” conducted by a federal agency
- (h)(5) – trainees who have served in the military must provide one of the four types of record checks above in addition to a DD-214 showing “Character of Service” and “Narrative Reason for Separation”
- (h)(6) – trainees who are naturalized citizens do not need to provide record checks from locations outside the United States before they were naturalized
- (h)(7) – trainees who have resided outside the United States, other than those in sections (5) and (6), who cannot obtain a criminal record check from locations outside the U.S. must provide certain documentation to the Standards Division for consideration on a case-by-case basis
- All record checks provided pursuant to subsection (h) must include certified court documentation for any criminal conviction or court-martial

Subsection (i) sets forth the requirements and parameters for documents provided pursuant to subsection 9(h). New subsection (l) and (m) were requested by school directors in order to ensure that BLET trainees will be able to legally drive and carry a firearm during the BLET process. The Committee voted to adopt those changes and correct some grammar that already existed. A motion was made by Commissioner Hassell and seconded by Commissioner Davis. The motion carried.

12 NCAC 09B .0303 – Terms and Conditions of General Instructor Certification

The Committee voted to recommend adoption of the proposed changes to the rule. The changes to this rule are intended to correct the URL to access forms and to allow Probationary Instructors to earn their certification without having to wait a full year. Trends have shown that Probationary Instructors are able to obtain the necessary evaluated instruction hours well short of a year, and this change would allow them to obtain their full certification upon completion of those hours. A motion was made by Commissioner Patterson and seconded by Commissioner Davis. The motion carried.

12 NCAC 09E .0104 – Instructors: Annual In-Service Training

The Committee approved this rule change so that instructors can complete mandated in-service training in November and December in order to be ready to teach starting in January of the calendar year for those topics. The Committee voted to recommend the adoption of the proposed changes to the rule, but made additional clarifying changes:

- Instructors who, no more than 60 days prior to the upcoming calendar year, complete mandated in-service topics in their entirety pursuant to 12 NCAC 09E .0105 as presented by the North Carolina Justice Academy as part of the Instructor Training Update program shall have satisfied the requirements of 12 NCAC 09E .0105 for the upcoming calendar year.

The motion to adopt those changes was made by Commissioner Epley and seconded by Commissioner Gregson. The motion carried.

12 NCAC 09E .0105 – Minimum Training Specification: Annual In-Service Training

The Committee voted to recommend adoption of the proposed changes to the rule. These provisions change every year pursuant to the recommendations of the Joint In-Service Training Committee. Though the Commission is seeking legislation to give it the authority to publish the in-service topics without amending the Administrative Code, we do not know when or if that will pass and so must amend this provision for the 2021 in-service training. A motion was made by Commissioner Hicks and seconded by Commissioner Jardon. The motion carried.

12 NCAC 09G .0309 – Terms and Conditions of General Instructor Certification

The Committee voted to recommend adoption of the proposed changes to the rule. This is the sister rule for corrections to 09B .0303, which we approved above for criminal justice officers. The changes are the same—revising the URL for forms and allowing instructors to come off probationary status sooner than a year if they complete the necessary requirements. A motion was made by Commissioner Rose and seconded by Commissioner Epley. The motion carried.

12 NCAC 09H .0102 – Minimum Training Specifications

The Committee considered changes to the rule, essentially overhauling the procedures for retired law enforcement officers to carry concealed weapons. As revised, the statute sets out the requirements much more clearly:

- (a) – four hours of firearms training and qualification
- (b) – qualify with each handgun in accordance with the published guidelines
- (c) – qualification includes both day and night course with each handgun and day/night combat course with one handgun
- (d) – required instruction on self-defense, use of force by private citizens, detention of persons by private citizens, and assistance to law enforcement by private citizens
- (e) – review of firearms safety and marksmanship
- (f) – qualification requirements consistent with current requirements
- (g) – period of certification and renewal
- (h) – the requirement to qualify each certification period with each handgun

There was a motion to adopt these changes by Commissioner Patterson and seconded by Commissioner Epley. The motion carried.

Committee Action Items:

At the previous meeting, Director Combs presented an update on the Field Training Best Practices document entitled “North Carolina Criminal Justice Education and Training Standards Commission Recommendation for Law Enforcement Field Training Programs” developed by the North Carolina Justice Academy. The Committee discussed proposed revisions to the document to get it ready for final publication and voted to approve the best practices guide with the noted revisions. The vote was made by Commissioner Hicks and seconded by Commissioner Hassell. The motion carried.

Informational Items

Next, Director Combs informed the Committee about a request for staff to research whether it would be possible to propose a rule revision to allow individuals to maintain their law enforcement certification eligibility by continuing mandatory in-service training each year, even when not currently employed as a law enforcement officer. Because this was a request from outside the Commission, Director Combs brought it to the Committee for a vote regarding whether staff time should be used to research this issue. The Committee voted to approve the research by staff. A motion was made by Commissioner Rose and seconded by Commissioner Epley. There will be an update at our future commission meeting.

Next meeting

The next meeting of the Committee will be on August 12, 2020.

The meeting adjourned at 12:20 pm