PROPOSED RULE AMENDMENTS

Public Hearing:

May 19, 2021
10:00 am

Full Commission Vote:

May 21, 2021
9:00 am

Wake Technical Community College
Public Safety Training Center
321 Chapanoke Rd.
Raleigh, NC 27502

Instructions for Oral and Written Comments: The objection, reasons for the objection, and the clearly identified portion of the rule to which the objection pertains, must be submitted in writing to:

Charminique Williams
Department of Justice
Criminal Justice Standards Division
PO Drawer 149
Raleigh, NC 27602.

Title:	Summary Suspensions, Minimum Standards for Criminal Justice Officers, Certification and Training for School Resource Officers, Trainee Attendance, Physical and Mental Standards, Moral Character, Suspension: Revocation: Or Denial of Certification.
Agency:	Criminal Justice Education and Training and Standards Commission
Contact:	Charminique Williams
Impact Summary:	State Government: No Local Government: No Substantial Impact: No Small Business: No

12 NCAC 09A .0206 Summary Suspensions
12 NCAC 09B .0101 Minimum Standards for Criminal Justice Officers
12 NCAC 09B .0313 Certification and Training for School Resource Officers
12 NCAC 09B .0404 Trainee Attendance
12 NCAC 09G .0205 Physical and Mental Standards
12 NCAC 09G .0206 Moral Character
12 NCAC 09G .0504 Suspension: Revocation: Or Denial of Certification
12 NCAC 09G .0506 Summary Suspensions

Statutory authority for the rule change: G.S. 17C-2; 17C-6; 17C-10; 150B-3;

Amendment: On February 26, 2021, the Criminal Justice Education and Training Standards Commission proposed amendments to the rules mentioned above to:

Ensure that Instructors who are either in violation of their instructor certification or teaching a course in violation of Commission rules may be summarily suspended until the non-compliance can be remedied. Ensure proper pre-employment psychological screening for applicants. To bring Probation and Parole Officers more in line with Law Enforcement Officers in terms of consideration of prior commission or conviction of a crime for certification. To clarify the School Resources Officer certification and training requirements. Attendance waiver authority to the Standards Director for situations where a Specialized instructor cannot complete the course delivery due to an accident, illness, emergency, or course cancellation.

- ☐ **State Impact:** None
- ☐ **Local Government Impact:** No
- ☐ **Substantial Economic Impact:** No
- ☐ **Small Business Impact:** No

*Rules begin on the following page

12 NCAC 09A .0206 is proposed for amendment as follows:

12 NCAC 09A .0206 SUMMARY SUSPENSIONS

(a) The Commission, by and through the Probable Cause Committee, may summarily suspend the certification of a criminal justice officer or instructor before the commencement of proceedings for suspension or revocation of the certification if the public health, safety, or welfare requires action pursuant to G.S. 150B-3. The Commission has determined that the following conditions specifically affect the public health, safety, or welfare and therefore it, by and through the Probable Cause Committee, may summarily suspend a certification of a criminal justice officer if:

(1) the person has committed or been convicted of a violation of the criminal code that would require a permanent revocation or denial of certification;

(2) the certified officer fails to satisfactorily complete the in-service training requirements as prescribed in 12 NCAC 09E; or

(3) the certified officer has produced a positive result on a urinalysis test, conducted in accordance with 12 NCAC 09B .0101(5).

(b) For the purpose of considering a summary suspension of certification, the Probable Cause Committee shall meet only upon notice given by mail, telephone, or other means not less than 48 hours in advance of the meeting.

(c) A summary suspension shall be effective on the date specified in the order of summary suspension or upon service of the certified copy of the order at the last known address of the person, whichever is later. The summary suspension shall remain effective during the proceedings.

(d) The Director, upon receipt of information showing the existence of a basis for summary suspension provided for in Subparagraph (a)(1), (2), or (3) of this Rule, shall coordinate the meeting described in Paragraph (b) of this Rule. All affected persons shall be notified, that the person may submit any pertinent matters to the Probable Cause Committee for its consideration before the Committee acts on the summary suspension issue. No person shall be allowed more than 48 hours to submit information to the Probable Cause Committee.

(e) Upon oral notification by the Director that the certification of an officer or instructor is being summarily suspended by written order, the Department Head of the Criminal Justice Agency or the executive officer of the institution shall ensure that the officer or instructor does not perform duties requiring certification by the Commission.

(f) The Commission, by and through the Director, upon determining that a Commission-certified Concealed Carry Handgun Instructor has conducted a concealed carry handgun training course as mandated by G.S. 14-415(a)(4) that is not in compliance with 12 NCAC 09F .0102 and negatively affects the public safety and welfare shall do the following until such time as the training course has been brought into compliance or reported to the Probable Cause Committee for action:

(1) summarily suspend the Concealed Carry Handgun Instructor certification, prohibiting him or her from delivering concealed carry handgun training until the Director determines the training program is brought into compliance with 12 NCAC 09F .0102 and 12 NCAC 09F .0105 of this Chapter; and

(2) inform the instructor that he or she may appeal the Director's suspension by requesting, in writing, a formal hearing before the Probable Cause Committee at the next scheduled Commission meeting.

(g) The Commission, by and through the Director, upon determining that a Commission-certified instructor has conducted a Commission approved training course in a way that was not in accordance with the requirements of this Chapter and/or has conducted a Commission approved training course while being in violation of the instructor's minimum standards as outlined in 12 NCAC 09B .0301 shall do the following until such time as the training course or their instructor certification has been brought into compliance:

(1) summarily suspend the individual's Instructor's certification, prohibiting him or her from delivering Commission approved training until the noncompliance is remedied;

(2) the Director shall send a report of all summary suspensions for a formal hearing before the Probable Cause Committee at the next scheduled Commission meeting; or

(h) The Commission, by and through the Director, upon determining a Commission-certified instructor has been alleged to have violated a certification rule as outline in this Chapter shall do the following:

(1) summarily suspend the individual's Instructor's certification, prohibiting him or her from delivering Commission approved training until the matter is resolved;

(2) the Director shall send a report of all summary suspensions for a formal hearing before the Probable Cause Committee at the next scheduled Commission meeting.

(i) A summary suspension shall be effective on the date specified in the order of summary suspension or upon service of the certified copy of the order at the last known address of the person, whichever is later. The summary suspension shall remain effective during the Final Agency Decision and appeals to the Superior and Appellate courts.

~~(g)~~(j) The Commission, by and through the Director, upon determining that a criminal justice officer who was issued a waiver of the requirements of 12 NCAC 09C .0306 has not met those requirements within 60 days of being awarded general certification by the Commission, shall summarily suspend the officer's certification until the officer meets the requirements of 12 NCAC 09C .0306.

History Note: *Authority G.S. 17C-6; 17C-10; 150B-3;*
Eff. January 1, 1981;
Amended Eff. October 1, 2017; February 1, 2016; December 1, 2007; March 1, 2004; July 1, 1990; July 1, 1989; October 1, 1985; August 15, 1981;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019.

12 NCAC 09B .0101 is proposed for amendment as follows:

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

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

(1) be a citizen of the United States;

(2) be at least 20 years of age;

(3) be of good moral character pursuant to G.S. 17C-10 as evidenced by the following:

(a) not having been convicted of a felony;

(b) not having been convicted of a misdemeanor as defined in 12 NCAC 09B .0111(1) for five years or the completion of any corrections supervision imposed by the courts, whichever is later;

(c) not having been convicted of an offense that would prohibit the possession of a firearm or ammunition, under 18 U.S.C. 922, which is hereby incorporated by reference with subsequent amendments and editions and can be found at no cost at https://www.govinfo.gov/content/pkg/USCODE-2018-title18/pdf/USCODE-2018-title18-partI-chap44.pdf;

(d) having submitted to and produced a negative result on a drug test within 60 days of employment or any in-service drug screening required by the appointing agency that meets the certification standards of the Department of Health and Human Services for Federal Workplace Drug Testing Programs. A list of certified drug testing labs that meet this requirement may be obtained, at no cost, at https://www.samhsa.gov/programs-campaigns/drug-free-workplace/guidelines-resources/drug-testing/certified-lab-list;

(e) submitting to a background investigation consisting of the verification of age and education and a criminal history check of local, state, and national files;

(f) being truthful in providing information to the appointing agency and to the Standards Division for the purpose of obtaining probationary or general certification;

(g) not having pending or outstanding felony charges that, if convicted of such charges, would disqualify the applicant from holding such certification, pursuant to G.S. 17C-13; and

(h) not having engaged in any conduct that brings into question the truthfulness or credibility of the officer, or involves "moral turpitude." "Moral turpitude" is conduct that is contrary to justice, honesty, or morality, including conduct as defined in: In re Willis 288 N.C. 1, 215 S.E. 2d 771 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.

(4) have been fingerprinted and a search made of local, state, and national files to disclose any criminal record;

(5) have been examined and certified by a licensed surgeon, physician, physician assistant, or nurse practitioner to meet physical requirements necessary to fulfill the officer's particular responsibilities listed in the Medical Screening Guide as found at https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/ and shall have produced a negative result on a drug screen administered according to the following specifications:

(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 authorized or mandated by the Department of Health and Human Services for Federal Workplace Drug Testing Programs;

(b) a chain of custody shall be maintained on the specimen from collection to the eventual discarding of the specimen;

(c) the drug screen shall test for the presence of at least cannabis, cocaine, phencyclidine (PCP), opiates, and amphetamines or their metabolites;

(d) the test threshold values meet the requirements established by the Department of Health and Human Services for Federal Workplace Drug Testing Programs, as found in 82 FR 7920 (2017) incorporated by reference, including later amendments and editions found at no cost at https://www.federalregister.gov/documents/2017/01/23/2017-00979/mandatory-guidelines-for-federal-workplace-drug-testing-programs;

(e) the test conducted shall be not more than 60 days old, calculated from the time when the laboratory reports the results to the date of employment; and

(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;

(6) have been administered a psychological screening ~~examination~~ by a clinical psychologist or psychiatrist licensed to practice in North Carolina or by a clinical psychologist or psychiatrist 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 and upon the acceptance of a conditional offer of employment to determine the officer's mental and emotional suitability to properly fulfill the responsibilities of the position as listed in the Medical Screening Guide found at https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/, as follows;

(a) Law Enforcement Officer applicant: pre-employment psychological screenings shall at a minimum include: (i) a pre-employment written psychological test recognized in the field, and supervised by a licensed psychologist or psychiatrist and (ii) a clinical interview conducted by a licensed psychiatrist or psychologist.

(b) Juvenile Justice Officer applicant, Juvenile Court Counselor applicant, Chief Court Counselor applicant, or Local Confinement Officer applicant: pre-employment psychological screenings shall at a minimum include (i) a pre-employment written psychological test recognized in the field, and supervised by a licensed psychologist or psychiatrist and (ii) a clinical interview conducted by a licensed psychiatrist or psychologist if the psychologist or psychiatrist reviewing the results of the pre-employment test identifies any issue which he/she believes needs further examination or other information is found in the pre-employment process or otherwise that raises questions about the psychological suitability of the candidate;

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

(8) make the following notifications:

(a) within 30 days of the qualifying event notify the Standards Division and the appointing department 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 30 days of the qualifying event notify the Standards Division and the appointing department 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 30 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 30 days of the date the case was disposed of in court, the department 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 30 days of the issuance of all Domestic Violence Protective Orders (G.S. 50B) and Civil No Contact Orders (G.S. 50C), the department head, provided he or she has knowledge of the order, shall also notify the Standards Division of these orders.

(9) 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 department head, shall be sufficient notice for compliance with this Item.

History Note: *Authority G.S. 17C-6; 17C-10;*
Eff. January 1, 1981;
Amended Eff. April 1, 2018; October 1, 2017; September 1, 2001; April 1, 1999; January 1, 1995; November 1, 1993; July 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019;
Amended Eff. October 1, 2020.

12 NCAC 09B .0313 is proposed for amendment as follows:

12 NCAC 09B .0313 CERTIFICATION AND TRAINING FOR SCHOOL RESOURCE OFFICERS

(a) A "School Resource Officer (SRO)" is defined as any law enforcement officer assigned to one or more public schools within a local school administrative unit, as defined in G.S. 115C-5(6), who works in a school at least 20 hours per week for more than 12 weeks per calendar year to assist with all of the following:

(1) School safety;

(2) School security;

(3) Emergency preparedness;

(4) Emergency response; and

(5) Any additional responsibilities related to school safety or security assigned by the officer's employer while the officer is acting as a School Resource Officer.

Any written memorandum of understanding between the local school administrative unit and the law enforcement agency governing the School Resource Officer shall be consistent with this Paragraph.

(b) Law enforcement officers assigned by their agency to perform duties as a School Resource Officer shall:

(1) have been issued general certification by the North Carolina Criminal Justice Education and Training Standards Commission as a law enforcement officer; and

(2) have until December 31, 2020, to complete the ~~Basic~~ basic School Resource Officer Training course, if they are acting in the capacity of a School Resource Officer between October 1, 2018 and December 31, 2019. Any officer assigned as a School Resource Officer effective January 1, 2020 or later shall complete the School Resource Officer Training course pursuant to Paragraph (f) of this Rule, within one year after being assigned as a School Resource Officer. Law enforcement officers who previously completed the training pursuant to Paragraph ~~(f)~~ (g) of this Rule and who have been continually assigned as an SRO pursuant to Paragraph (a) of this Rule shall be credited with completion of the ~~Basic~~ basic School Resource Officer Training. Law enforcement officers who completed the training pursuant to Paragraph (g) of this Rule between October 1, 2018, and December 31, 2020, shall be credited with completion of the Basic School Resource Officer Training course even if they were not assigned as an SRO pursuant to Paragraph (a) of this Rule as long as they comply with the annual SRO refresher training pursuant to Paragraph (g) of this Rule.

(c) A law enforcement officer assigned to one or more public schools within a local school administrative unit, who works in a school at least 20 hours per week for more than 12 weeks per calendar year and who has not completed the initial training as established by Paragraph ~~(f)~~ (g) of this Rule shall not work in a school as a School Resource Officer until the officer has completed the initial training as established by Paragraph ~~(f)~~ (g) of this Section.

(d) The agency head shall submit to the Criminal Justice Standards Division a Form F-20 Commission School Resource Officer Assignment Form for the person(s) selected to act as a School Resource Officer for the agency. The Form F-20 is located on the agency's website: ~~https://ncdoj.gov/getdoc/576c353c-0dcb-4c84-8cc4-c9d17985541f/SRO-form.aspx~~ https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-

publications/#91-114-wpfd-law-enforcement and must be completed in its entirety. The Commission School Resource Officer Assignment Form consists of the following:

(1) applicants name;

(2) date of birth;

(3) social security number;

(4) name of agency and address;

(5) date awarded general certification;

(6) completion date of School Resource Officer training; and

(7) date assigned as a School Resource Officer.

(e) The term of certification as a School Resource Officer shall be indefinite, provided the School Resource Officer completes during each calendar year a one hour ~~Basic~~ basic School Resource Officer refresher training authored by North Carolina Justice Academy. For School Resource Officers who complete the basic SRO training requirement in 2020 or earlier, this requirement shall be effective January 1, 2021. For SROs, this requirement shall be effective the year following the officer's successful completion of the ~~Basic~~ basic School Resource Officer Training course. A certified School Resource Officer who has not completed the refresher training during a calendar year as established by this Rule shall not work in a school as a School Resource Officer until the officer has completed the required refresher training as established by this Rule. Any refresher training deficiency must be made up on or before January 31, of the following calendar year.

(f) Instructors who teach a basic SRO course in a traditional classroom format will receive credit toward the completion of the basic SRO course requirement as required by this Rule, provided that they pass all required tests and have their instruction documented by the Department Head or In-Service Training Coordinator once completed.

~~(f)~~(g)The ~~Basic~~ basic School Resource Officer Training course for law enforcement officers shall provide the trainee with the skills and knowledge to perform in the capacity of a School Resource Officer. The ~~Basic~~ basic School Resource Officer Training course authored by the North Carolina Justice Academy shall be used as the curriculum for this training course. Copies of this publication may be inspected at the office of 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 obtained 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
Salemburg, North Carolina 28385

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

Eff. October 1, 2018;

Amended Eff. October 1, 2019.

12 NCAC 09B .0404 is proposed for amendment as follows:

12 NCAC 09B .0404 TRAINEE ATTENDANCE

(a) Each trainee enrolled in a certified Basic Law Enforcement Training Course shall attend all class sessions. The school director shall monitor the trainee's regular attendance at criminal justice training courses in which the trainee is enrolled.

(b) The school director may excuse a trainee from attendance at specific class sessions. However, in no case may excused absences exceed five percent of the total class hours for the course offering. A trainee shall not be eligible for administration of the state comprehensive examination and shall be dismissed from the course if the cumulative total of class absences exceeds five percent regardless of the prior completion of make-up work.

(c) If the school director grants an excused absence from a class session, he shall schedule make-up work and ensure the satisfactory completion of such work during the current course presentation. The school director shall schedule instructors and reimburse those instructors for the purpose of completion of the make up work. Absences which occur during the last forty hours of the training course may be made up in a subsequent delivery; however, the school director shall notify the Standards Division prior to scheduling the make up work.

(d) A school director may terminate a trainee from course participation or may deny certification of successful course completion where the trainee is tardy to or departs early from class meetings or field exercises.

(e) Where a trainee is enrolled in a program as required in 12 NCAC 09B .0212, .0213, .0214, .0215, .0218, .0219, .0220, .0221, .0222, .0237, .0238, .0239, or .0240, and the scheduled course hours exceed the requirements of the Commission, the trainee, upon the authorization of the school director, may be deemed to have satisfactorily completed the required number of hours for attendance provided the trainee's attendance is not less than 100 percent of the instructional hours as required by the Commission.

(f) A trainee enrolled in a presentation of the "Criminal Justice Instructor Training Course" under Rule .0209 of this Subchapter shall not be absent from class attendance for more than 10 percent of the total scheduled delivery period in order to receive successful course completion.

(g) A trainee, enrolled in a presentation of the "Specialized Firearms Instructor Training" course under Rule .0226 of this Subchapter, the "Specialized Driving Instructor Training" course under Rule .0227 of this Subchapter, the "Specialized Subject Control Arrest Techniques Instructor Training" course under Rule .0232 of this Subchapter, or the "Specialized Physical Fitness Instructor Training" course under Rule .0233 of this Subchapter, shall not be absent from class attendance for more than 10 percent of the total scheduled delivery period in order to receive successful course completion. Make-up work must be completed during the current course presentation for all absenteeism. The Director, Criminal Justice Standards Division may grant a waiver for completion of course requirements, in a course delivery scheduled within 12 months, for just cause based upon the circumstances that created the need for the absence. For purpose of this Rule, "just cause" includes an accident, illness, emergency, or course cancellation that precluded the student from completing the entire course in one continuous course delivery.

(h) A trainee, enrolled in a presentation of the "Radar Instructor Training Course" under Rule .0210 of this Subchapter, the "Time-Distance Speed Measurement Instrument Instructor Training Course" under Rule .0211 of this Subchapter,

or the "Lidar Speed Measurement Instrument Instructor Training Course" under Rule .0235 of this Subchapter shall not be absent from class attendance for more than 10 percent of the total scheduled delivery period in order to receive successful course completion. Make-up work must be completed during the current course presentation for all absenteeism.

History Note: *Authority G.S. 17C-2; 17C-6; 17C-10;*
Eff. January 1, 1981;
Amended Eff. November 1, 1981;
Readopted Eff. July 1, 1982;
Amended Eff. February 1, 2006; May 1, 2004; August 1, 2000; April 1, 1999; November 1, 1993; July 1, 1989; February 1, 1987; June 1, 1986;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019.

12 NCAC 09G .0205 is proposed for amendment as follows:

12 NCAC 09G .0205 PHYSICAL AND MENTAL STANDARDS

(a) Every person employed as a correctional officer or probation/parole officer by the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice shall have been examined and certified within one year prior to employment with the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice by a physician licensed in North Carolina, physician's assistant, or nurse practitioner to meet the physical requirements to fulfill the officer's particular responsibilities as stated in the essential job functions listed in the Medical Screening Guide as found at https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/.

(b) Every person employed as a correctional officer or probation/parole officer by the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice shall have been ~~administered~~ administered, within one year prior to employment with the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice and upon the acceptance of a conditional offer of employment, a psychological screening ~~examination~~ by a clinical psychologist or psychiatrist licensed to practice in North Carolina or by a clinical psychologist or psychiatrist authorized to practice in accordance with the rules and regulations of the United States Armed Forces to determine the officer's mental and emotional suitability to fulfill the ~~officer's particular~~ responsibilities of the position as ~~stated in the essential job functions~~ listed in the Medical Screening Guide as found at https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/, as follows:

(1) Correctional Officer applicant: pre-employment psychological screening shall at a minimum include (i) a pre-employment written psychological test recognized in the field, and supervised by a licensed psychologist or psychiatrist and (ii) a clinical interview conducted by a licensed psychiatrist or psychologist if the psychologist or psychiatrist reviewing the results of the pre-employment test identifies any issue which he/she believes needs further examination or other information is found in the pre-employment process otherwise that raises questions about the psychological suitability of the candidate.

(2) Probation/Parole Officer applicant: pre-employment psychological screening shall at a minimum include (i) a pre-employment written psychological test recognized in the field, and supervised by a licensed psychologist or psychiatrist and (ii) a clinical interview conducted by a licensed psychiatrist or psychologist.

History Note: *Authority G.S. 17C-6; 17C-10;*
Temporary Adoption Eff. January 1, 2001;
Eff. August 1, 2002;
Amended Eff. January 1, 2015; April 1, 2009; August 1, 2004;

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

12 NCAC 09G .0206 is proposed for amendment as follows:

12 NCAC 09G .0206 MORAL CHARACTER

Every person employed as a correctional officer as defined in 12 NCAC 09G .0102 (3) or probation/parole officer as defined in 09G.0102 (12) by the Department of Public Safety, Division of Adult Correction and Juvenile Justice shall demonstrate good moral character as evidenced by the following:

(1) for correctional officers, not having been convicted of a felony;

(2) for probation/parole officers, not having committed or having been convicted of a felony;

~~(2)~~(3) for correctional officers, not having been convicted of a misdemeanor as defined in 12 NCAC 09G .0102 ~~(10)~~ for three years or the completion of any corrections supervision imposed by the courts, whichever is later;

(4) for probation/parole officers, not having committed or having been convicted of a misdemeanor as defined in 12 NCAC 09G .0102 for a three years period prior to the date of application for employment;

~~(3)~~(5) not having been convicted of an offense that, under 18 U.S.C. 922, incorporated by reference with subsequent amendments and editions (found at no cost at http://www.gpo.gov/fdsys/pkg/USCODE-2011-title18-partl-chap44-sec922.pdf), would prohibit the possession of a firearm or ammunition;

~~(4)~~(6) having submitted to and produced a negative result on a drug test within 60 days of employment or any in-service drug screening required by the Department of Public Safety, Division of Adult Correction and Juvenile Justice that meets the certification standards of the Department of Health and Human Services for Federal Workplace Drug Testing Programs. A list of certified drug testing labs that meet this requirement may be obtained, at no cost, at http://workplace.samhsa.gov/DrugTesting/Level_1_Pages/CertifiedLabs.html;

~~(5)~~(7) submitting to a background investigation consisting of the following:

(a) verification of age;

(b) verification of education; and

(c) criminal history check of local, state, and national files;

~~(6)~~(8) being truthful in providing information to the Department of Public Safety, Division of Adult Correction and Juvenile Justice and to the Standards Division for the purpose of obtaining probationary or general certification;

~~(7)~~(9) not having pending or outstanding felony charges that, if convicted of such charges, would disqualify the applicant from holding such certification, pursuant to G.S. 17C-13; and

~~(8)~~(10) not engage in any conduct that brings into question the truthfulness or credibility of the officer, or involves "moral turpitude." "Moral Turpitude" is conduct that is contrary to justice, honesty, or morality, including conduct as defined ~~in:~~ In: re Willis, 288 ~~299~~ N.C. 1, 215 S.E. 2d 771 appeal dismissed 423 U.S. 976 (1975); ~~in~~ In re State v. Harris, 216 N.C. 746, 6 S.E.2d 854 (1940); ~~in~~ In re Legg, 325 N.C. 658, 386 S.E. 2d 174(1989); ~~in~~ In re Applicants for License, 143 N.C. 1, 55 S.E.

635 (1906); ~~in~~ 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 as authority.

History Note: *Authority G.S. 17C-6; 17C-10;*
Temporary Adoption Eff. January 1, 2001;
Eff. August 1, 2002;
Amended Eff. October 1, 2017; April 1, 2017; January 1, 2015; June 1, 2012; April 1, 2009; August 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019.

12 NCAC 09G .0504 is proposed for amendment as follows:

12 NCAC 09G .0504 SUSPENSION: REVOCATION: OR DENIAL OF CERTIFICATION

(a) The Commission shall revoke the certification of a correctional officer or probation/parole officer when the Commission finds that the officer has committed or been convicted of a felony offense.

(b) The Commission shall deny the certification of a correctional officer when the Commission finds the officer has been convicted of a felony.

(c) The Commission shall deny the certification of a probation/parole officer when the Commission finds the officer has committed or been convicted of a felony offense.

~~(b)~~(d) The Commission may, based on the evidence for each case, suspend, revoke, or deny the certification of a corrections ~~officer~~ officer, as defined in 12 NCAC 09G .0102(4) when the Commission finds that the applicant for certification or the certified officer:

(1) has not enrolled in and completed with passing scores the required basic training course in its entirety in time periods prescribed in 12 NCAC 09G .0400 applicable to a specified position or job title;

(2) fails to meet or maintain one or more of the employment standards required by 12 NCAC 09G .0200 for the category of the officer's certification or fails to meet or maintain one or more of the training standards required by 12 NCAC 09G .0400 for the category of the officer's certification;

(3) for correctional officers as defined in 09G .0102(3), who have ~~has~~ committed or been convicted of a misdemeanor as defined in 12 NCAC 09G .0102 after certification;

(4) for probation/parole officers as defined in 09G .0102(12), who have committed or been convicted of a misdemeanor as defined in 12 NCAC 09G .0102 for a three year period prior to the date of application for employment or after certification;

~~(4)~~(5) has been discharged by the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice for:

(A) commission or conviction of a motor vehicle offense requiring the revocation of the officer's drivers license; or

(B) lack of good moral character as defined in 12 NCAC 09G .0206;

~~(5)~~(6) has been discharged by the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice because the officer lacks the mental or physical capabilities to fulfill the responsibilities of a corrections officer;

~~(6)~~(7) has knowingly made a material misrepresentation of any information required for certification or accreditation;

~~(7)~~(8) has knowingly and willfully, by any means of false pretense, deception, fraud, misrepresentation, or cheating whatsoever, obtained or attempted to obtain credit, training, or certification from the Commission;

~~(8)~~(9) has knowingly and willfully, by any means of false pretense, deception, fraud, misrepresentation, or cheating whatsoever, aided another person in obtaining or attempting to obtain credit, training, or certification from the Commission;

~~(9)~~(10) has failed to notify the Standards Division of all criminal charges or convictions as required by 12 NCAC 09G .0302;

~~(10)~~(11) has been removed from office by decree of the Superior Court in accord with the provisions of G.S. 128-16 or has been removed from office by sentence of the court in accord with the provisions of G.S. 14-230;

~~(11)~~(12) has refused to submit to an applicant drug screen as required by 12 NCAC 09G .0206; 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 Department of Public Safety, Division of Adult Correction and Juvenile Justice;

~~(12)~~(13) has produced a positive result on a drug screen reported to the Commission as specified in 12 NCAC 09G .0206, where the positive result cannot be explained to the Commission's satisfaction. For the purposes of this Rule, "to the Commission's satisfaction" shall be determined on a case-by-case basis, and the use of a prescribed drug shall be satisfactory; or

~~(13)~~(14) has been denied certification or had such certification suspended or revoked by a previous action of the North Carolina Criminal Justice Education and Training Standards Commission, the North Carolina Company Police Program, the North Carolina Campus Police Program, the North Carolina Sheriffs' Education and Training Standards Commission, or a similar North Carolina, out of state, or federal approving, certifying, or licensing agency whose function is the same or similar to the agencies if the certification was denied, suspended, or revoked based on grounds that would constitute a violation of this Subchapter.

~~(c)~~(e) Following suspension, revocation, or denial of the person's certification, the person shall not remain employed or appointed as a corrections officer and the person shall not exercise any authority of a corrections officer during a period for which the person's certification is suspended, revoked, or denied.

History Note: *Authority G.S. 17C-6; 17C-10;*
Temporary Adoption Eff. January 1, 2001;
Eff. August 1, 2002;
Amended Eff. December 1, 2018; January 1, 2015; April 1, 2009; December 1, 2004; August 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019.

12 NCAC 09G .0506 is proposed for amendment as follows:

12 NCAC 09G .0506 SUMMARY SUSPENSIONS

(a) The Commission, by and through the Probable Cause Committee, may summarily suspend the certification of a corrections officer or instructor before the commencement of proceedings for suspension or revocation of the certification when, in the opinion of the Probable Cause Committee, the public health, safety, or welfare requires this emergency action of summary suspension. The Commission has determined that the following condition specifically affects the public health, safety, or welfare and therefore it, by and through the Probable Cause Committee, may utilize summary suspension: when the ~~person~~ corrections officer has committed or been convicted of a violation of the criminal code which would require a permanent revocation or denial of certification.

(b) For the purpose of considering a summary suspension of certification, the Probable Cause Committee may meet upon notice given by mail, telephone, or other means not less than 48 hours in advance of the meeting.

(c) A summary suspension shall be effective on the date specified in the order of summary suspension or on service of the certified copy of the order at the last known address of the person, whichever is later. The summary suspension shall remain effective during the proceedings.

(d) Upon verbal notification by the Director that the certification of an officer or instructor is being summarily suspended by written order, the North Carolina Department of Correction shall take such steps as are necessary to ensure that the officer or instructor does not perform duties requiring certification by the Commission.

(e) The Commission, by and through the Director, upon determining that a Commission-certified instructor has conducted a Commission approved training course in a way that was not in accordance with the requirements of this Chapter and/or has conducted a Commission approved training course while being in violation of the instructor's minimum standards as outlined in 12 NCAC 09G .0307 shall do the following until such time as the training course or their instructor certification has been brought into compliance:

(1) summarily suspend the individual's Instructor's certification, prohibiting him or her from delivering Commission approved training until the noncompliance is remedied;

(2) the Director shall send a report of all summary suspensions for formal hearing before the Probable Cause Committee at the next scheduled Commission meeting; or

(f) The Commission, by and through the Director, upon determining a Commission-certified instructor has been alleged to have violated a certification rule as outline in this Chapter shall do the following:

(1) summarily suspend the individual's Instructor's certification, prohibiting him or her from delivering Commission approved training until the matter is resolved;

(2) the Director shall send a report of all summary suspensions for formal hearing before the Probable Cause Committee at the next scheduled Commission meeting.

(g) The Commission, by and through the Director, upon a Finding of Probable Cause by the Probable Cause Committee that an instructor has violated a certification rule outlined in this Chapter shall summary suspend the individual's instructor certification. A summary suspension shall be effective on the date specified in the order of summary suspension or upon service of the certified copy of the order at the last known address of the person,

1 whichever is later. The summary suspension shall remain effective during the Final Agency Decision and appeals to
2 the Superior and Appellate courts.
3
4 *History Note:* *Authority G.S. 17C-6; 17C-10; 150B-3;*
5 *Temporary Adoption Eff. January 1, 2001;*
6 *Eff. August 1, 2002;*
7 *Amended Eff. January 1, 2004;*
8 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*
9 *2019.*
10