

PROPOSED RULE AMENDMENTS

Public Hearing:

November 18, 2021
10:00 am

Full Commission Vote:

November 19, 2021
9:00 am

Wake Technical Community College
Public Safety Training Center
321 Chapanoke Rd.
Raleigh, NC 27603

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: Period of Suspension: Revocation: or Denial, Basic Training- Juvenile Court Counselors and Chief Court Counselors, Suspension: Revocation: or Denial of Certification, Period of Suspension: Revocation: or Denial

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 .0205 Period of Suspension: Revocation: or Denial

12 NCAC 09B .0235 Basic Training- Juvenile Court Counselors and Chief Court Counselors

12 NCAC 09G .0504 Suspension: Revocation: or Denial of Certification

12 NCAC 09G .0505 Period of Suspension: Revocation: or Denial

Statutory authority for the rule change: G.S. 17C-2, 17C-6, 17C-10

Amendment: On August 13, 2021, the Criminal Justice Education and Training Standards Commission proposed amendments to the rules mentioned above to:

To make 09G .0504 consistent with 09G. 0206 which does not require sanctions for corrections officers for the commission of misdemeanor offenses, only for conviction. 09A .0205 and 09G .0505 to allow the Commission to reduce the period of sanction and impose a period of probation as appropriate.

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

*Rules begin on the following page

1 12 NCAC 09A .0205 is proposed for amendment as follows:

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3 **12 NCAC 09A .0205 PERIOD OF SUSPENSION: REVOCATION: OR DENIAL**

4 (a) When the Commission revokes or denies the certification of a criminal justice officer, the period of the sanction
5 shall be permanent where the cause of sanction is:

- 6 (1) commission or conviction of a felony offense, except as provided by G.S. 17C-13(a);
- 7 (2) commission or conviction of a criminal offense for which punishment is authorized by law to
8 included imprisonment for more than two years, except as provided by G.S. 17C-13(a); or
- 9 (3) the second suspension of an officer's certification for any of the causes requiring a five-year period
10 of suspension pursuant to 12 NCAC 09A .0204.

11 (b) When the Commission suspends or denies the certification of a criminal justice officer, the period of sanction
12 shall be not less than five years; however, the Commission may ~~either~~ reduce or suspend the period of sanction or
13 substitute a period of probation in lieu of suspension of ~~certification~~ certification, or impose a combination of
14 reduction, suspension or probation as determined on a case-by-case basis following a consent order or an
15 administrative hearing, where the cause of sanction is:

- 16 (1) commission or conviction of a criminal offense other than those listed in Paragraph (a) of this Rule;
- 17 (2) refusal to submit to the applicant or lateral transferee drug screen required by these Rules;
- 18 (3) production of a positive result on a drug screen reported to the Commission under 12 NCAC 09C
19 .0310, where the positive result cannot be explained to be in compliance with the law;
- 20 (4) material misrepresentation of any information required for certification or accreditation;
- 21 (5) obtaining, attempting to obtain, aiding another person to obtain, or aiding another person to attempt
22 to obtain credit, training or certification by any means of false pretense, deception, defraudation,
23 misrepresentation or cheating;
- 24 (6) failure to make either of the notifications as required by 12 NCAC 09B .0101(8);
- 25 (7) removal from office under the provisions of G.S. 128-16 or the provisions of G.S. 14-230;
- 26 (8) performing activities or duties for which certification by the Commission is required without having
27 first obtained the appropriate certification; or
- 28 (9) commission or conviction of four or more crimes or unlawful acts defined as "Class B
29 misdemeanors" in 12 NCAC 09A .0103(24)(b), regardless of the date of conviction.

30 (c) When the Commission suspends or denies the certification of a criminal justice officer, the period of sanction
31 shall be for an indefinite period, but continuing so long as the stated deficiency, infraction, or impairment continues
32 to exist, where the cause of sanction is:

- 33 (1) failure to meet or satisfy relevant basic training requirements pursuant to 12 NCAC 09B .0205,
34 .0225, .0235, and 0236;
- 35 (2) failure to meet or maintain the minimum standards of employment pursuant to 09B .0101, .0111,
36 .0114, .0116, .0117;
- 37 (3) discharge from a criminal justice agency for impairment of physical or mental capabilities; or

1 (4) failure to meet or satisfy the in-service training requirements as prescribed in 12 NCAC 09E.

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

4 *Eff. January 1, 1981;*

5 *Amended Eff. February 1, 2006; August 1, 2001; November 1, 1993; July 1, 1990; July 1, 1989;*

6 *October 1, 1985;*

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

8 *2019;*

9 *Amended Eff. July 1, 2020.*

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1 12 NCAC 09B .0235 is proposed for amendment as follows:

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3 **12 NCAC 09B .0235 BASIC TRAINING – JUVENILE COURT COUNSELORS AND CHIEF COURT**
4 **COUNSELORS**

5 (a) The basic training course for Juvenile Court Counselors and Chief Court Counselors shall consist of a minimum
6 of 151 hours of instruction designed to provide the trainee with the skills and knowledge to perform those tasks
7 essential to function as a Juvenile Court Counselor and a Chief Court Counselor.

8 (b) Each basic training course for Juvenile Court Counselors shall include training in the following topic areas:

9	(1)	Juvenile Justice Common Core:	
10	(A)	Basic Individual Counseling Skills	8 hours
11	(B)	Interpersonal Communication Skills	8 hours
12	(C)	Working with Families	3 hours
13	(D)	Characteristics of Delinquents	4 hours
14	(E)	Unlawful Workplace Harassment	2 hours
15	(F)	Career Survival: Integrity and Ethics in the North Carolina Department of Public Safety Workplace	2 hours
16	(G)	Staff and Juvenile Relationships	4 hours
17	(H)	Gang Awareness	4 hours
18	(I)	Situational Awareness and Risk Assessment	4 hours
19	(J)	Restraints, Controls, and Defensive Techniques	28 hours
20	(K)	Mechanical Restraints	4 hours
21	(L)	Mental Health	8 hours
22	(M)	CPR	4 hours
23	(N)	First Aid	4 hours
24	(O)	Employee Fitness and Wellness	4 hours
25	(P)	Trauma and Delinquents	6 hours
26	(Q)	Driver and Secure Transport Safety	8 hours
27	(R)	DMC- Addressing DMC within the JJ System	2 hours
28	(S)	Verbal De-escalation for Juvenile Justice	4 hours
29		Total Hours	111 hours
30	(2)	Juvenile Court Counselor Specific:	
31	(A)	Roles and Responsibilities	8 hours
32	(B)	Juvenile Law	8 hours
33	(C)	Intake	8 hours
34	(D)	<u>Assessing Risk and Needs</u> Risk and Needs Assessment	4 hours
35	(E)	Report Writing and Documentation	12 hours
36		Total Hours	40 hours
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Total Course Hours

151 hours

(c) The "Juvenile Court Counselor Basic Training Manual" as published by the North Carolina Department of Public Safety shall be applied as the curriculum for delivery of Juvenile Court Counselor basic training courses. Copies of this publication may be inspected at or purchased at the cost of printing and postage from the office of the agency:

The Office of Staff Development and Training

North Carolina Department of Public Safety

2211 Schieffelin Road

Apex, North Carolina 27502

(d) Upon completion of a Commission-certified training course for Juvenile Court Counselors and Chief Court Counselors, the Director of the school conducting the course shall notify the Commission of training completion by submitting a Report of Training Course Completion for each trainee. The Report of Training Completion Form is located on the agency's website: http://www.ncdoj.gov/getattachment/fbf3480c-05a1-4e0c-a81a-04070dea6199/F-11-Form_10-2-14.pdf.aspx.

(e) Employees of the Division of Adult Correction and Juvenile Justice who have completed the minimum 151 hour training program accredited by the Commission pursuant to Rule .0236 of this Section after January 1, 2013 who transfer from a Juvenile Justice Officer position to a Juvenile Court Counselor position shall be required to complete only the portions of the course identified as specific to the duties and responsibilities of a Juvenile Court Counselor under Subparagraph (b)(2) of this Rule.

History Note: Authority G.S. 17C-2; 17C-6; 17C-10;
Temporary Adoption Eff. April 15, 2003;
Eff. April 1, 2004;
Amended Eff. July 1, 2017; July 1, 2016; August 1, 2015; May 1, 2014;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,
2019.

1 12 NCAC 09G .0504 is proposed for amendment as follows:
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3 **12 NCAC 09G .0504 SUSPENSION: REVOCATION: OR DENIAL OF CERTIFICATION**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (9) has knowingly and willfully, by any means of false pretense, deception, fraud, misrepresentation,
2 or cheating whatsoever, aided another person in obtaining or attempting to obtain credit, training,
3 or certification from the Commission;
- 4 (10) has failed to notify the Standards Division of all criminal charges or convictions as required by 12
5 NCAC 09G .0302;
- 6 (11) has been removed from office by decree of the Superior Court in accord with the provisions of G.S.
7 128-16 or has been removed from office by sentence of the court in accord with the provisions of
8 G.S. 14-230;
- 9 (12) has refused to submit to an applicant drug screen as required by 12 NCAC 09G .0206; or has refused
10 to submit to an in-service drug screen pursuant to the guidelines set forth in the Drug Screening
11 Implementation Guide as required by the Department of Public Safety, Division of Adult Correction
12 and Juvenile Justice;
- 13 (13) has produced a positive result on a drug screen reported to the Commission as specified in 12 NCAC
14 09G .0206, where the positive result cannot be explained to the Commission's satisfaction. For the
15 purposes of this Rule, "to the Commission's satisfaction" shall be determined on a case-by-case
16 basis, and the use of a prescribed drug shall be satisfactory; or
- 17 (14) has been denied certification or had such certification suspended or revoked by a previous action of
18 the North Carolina Criminal Justice Education and Training Standards Commission, the North
19 Carolina Company Police Program, the North Carolina Campus Police Program, the North Carolina
20 Sheriffs' Education and Training Standards Commission, or a similar North Carolina, out of state,
21 or federal approving, certifying, or licensing agency whose function is the same or similar to the
22 agencies if the certification was denied, suspended, or revoked based on grounds that would
23 constitute a violation of this Subchapter.

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

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28 *History Note: Authority G.S. 17C-6; 17C-10;*
29 *Temporary Adoption Eff. January 1, 2001;*
30 *Eff. August 1, 2002;*
31 *Amended Eff. December 1, 2018; January 1, 2015; April 1, 2009; December 1, 2004; August 1,*
32 *2004;*
33 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*
34 *2019;*
35 *Amended Eff. August 1, 2021.*
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1 12 NCAC 09G .0505 is proposed for amendment as follows:

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3 **12 NCAC 09G .0505 PERIOD OF SUSPENSION; REVOCATION; OR DENIAL**

4 (a) When the Commission revokes or denies the certification of a corrections officer pursuant to 12 NCAC 09G .0504
5 of this Section, the period of the sanction shall be 10 years where the cause of sanction is:

- 6 (1) commission or conviction of a felony offense;
- 7 (2) the second suspension of an officer's certification for any of the causes requiring a three-year period
8 of suspension; or
- 9 (3) revocation or denial of certification by the North Carolina Sheriffs' Education and Training
10 Standards Commission based on grounds that would constitute a violation of this Subchapter.

11 (b) When the Commission suspends or denies the certification of a corrections officer pursuant to 12 NCAC 09G
12 .0504 of this Section, the period of ~~sanction~~ sanction, shall be not less than three years; however, the Commission may
13 either reduce or suspend the period of sanction ~~under Paragraph (c) of this Rule~~ or substitute a period of probation in
14 lieu of suspension of ~~certification~~ certification, or impose a combination of reduction, suspension, or probation
15 following an administrative hearing, where the cause of sanction is:

- 16 (1) commission or conviction of a misdemeanor as defined in 12 NCAC 09G .0102;
- 17 (2) discharge by the North Carolina Department of Public Safety, Division of Adult Correction and
18 Juvenile Justice pursuant to 12 NCAC 09G .0504(b)(4) and (b)(5) of this Section;
- 19 (3) refusal to submit to the applicant drug screen required by the Rules in this Subchapter;
- 20 (4) production of a positive result on a drug screen reported to the Commission under 12 NCAC 09G
21 .0206, where the positive result cannot be explained to the Commission's satisfaction. For the
22 purposes of this Rule, "to the Commission's satisfaction" shall be determined on a case-by-case
23 basis, and the use of a prescribed drug shall be satisfactory;
- 24 (5) has knowingly made a material misrepresentation of any information required for certification or
25 accreditation;
- 26 (6) has knowingly and willfully obtained, attempted to obtain, aided another person to obtain, or aided
27 another person attempt to obtain credit, training or certification by any means of false pretense,
28 deception, defraudation, misrepresentation or cheating;
- 29 (7) failure to make either of the notifications as required by 12 NCAC 09G .0302;
- 30 (8) removal from office under the provisions of G.S. 128-16 or the provisions of G.S. 14-230; or
- 31 (9) certification revoked or denied by the North Carolina Sheriffs' Education and Training Standards
32 Commission, if such certification was revoked or denied based on grounds that would constitute a
33 violation of Section 09G of these Rules.

34 (c) When the Commission suspends or denies the certification of a corrections officer, the period of sanction shall be
35 for an indefinite period, but continuing so long as the stated deficiency, infraction, or impairment continues to exist,
36 where the cause of sanction is:

- 37 (1) failure to meet or satisfy relevant basic training requirements;

- 1 (2) failure to meet or maintain the minimum standards for certification; or
- 2 (3) discharge from the North Carolina Department of Correction for impairment of physical or mental
- 3 capabilities.

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