

PROPOSED RULE AMENDMENTS

Public Hearing

February 22, 2023

10:00am

Full Commission Vote

February 24, 2023

9:00am

**Wake Technical Community College
Public Safety Training Center
321 Chapanoke Road
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:



Michelle Schilling
Deputy Director
Criminal Justice Standards Division
PO Drawer 149
Raleigh, NC 27602

1 12 NCAC 09B .0305 is amended with changes as published in 37:11 NCR 784-791

2
3 **12 NCAC 09B .0305 TERMS AND CONDITIONS OF SPECIALIZED INSTRUCTOR**
4 **CERTIFICATION**

5 (a) An applicant meeting the requirements for Specialized Instructor Certification as set forth in Rule .0304 of this
6 Section shall be issued a certification to expire three years from the date of issuance. The applicant shall apply for
7 certification as a Specialized Instructor within 60 days after the date the applicant achieved a passing score on the state
8 comprehensive exam for the respective Specialized Instructor training course.

9 (b) Where certification for both General Probationary Instructor as set forth in Rule .0303 of this Section and
10 Specialized Instructor Certification are issued on the same date, the instructor is required to instruct, within three years
11 after certification, a minimum of 12 hours in each of the topics for which Specialized Instructor Certification was
12 granted, and that instruction was provided in a Commission-accredited basic training, Specialized Instructor Training,
13 Commission-recognized in-service training course, or training course delivered pursuant to 12 NCAC 10B .0601,
14 .1302, or .2005. The instructor may satisfy the teaching requirement for the General Probationary Instructor
15 certification by teaching any specialized topic for which certification has been issued.

16 (c) When Specialized Instructor Certification is issued during an existing period of General Probationary Instructor
17 Certification, the specialized instructor may satisfy the teaching requirement for the General Probationary Certification
18 by teaching the specialized subject for which certification has been issued.

19 (d) The term of certification as a specialized instructor shall be three years. An application for renewal shall contain,
20 in addition to the requirements listed in Rule .0304 of this Section, documentary evidence that the applicant has
21 remained active in the instructional process during the previous three-year period. Such documentary evidence shall
22 include the following:

23 (1) proof that the applicant has, within the three-year period preceding application for renewal,
24 instructed at least 12 hours in each of the topics for which Specialized Instructor Certification was
25 granted, and that instruction was provided in a Commission-accredited basic training, Specialized
26 Instructor Training, Commission-recognized in-service training course, or training course delivered
27 pursuant to 12 NCAC 10B .0601, .1302, or .2005. Acceptable documentary evidence shall include
28 official Commission records submitted by School Directors or In-Service Training Coordinators and
29 written certification from a School Director or In-Service Training Coordinator;

30 (2) proof that the applicant has, within the three-year period preceding application for renewal, attended
31 and completed all instructor updates that have been issued by the Commission. Acceptable
32 documentary evidence shall include official Commission records submitted by School Directors or
33 In-Service Training Coordinators, or copies of certificates of completion issued by the institution
34 which provided the instructor updates; and

35 (A) a favorable written recommendation from a School Director or In-Service Training
36 Coordinator completed on a Commission **[Renewal of] Application for** Instructor and
37 Professional Lecturer Certification Form (Form F-12[A]) stating the instructor taught at

1 least 12 hours in each of the topics for which Specialized Instructor Certification was
2 granted. The teaching shall have been provided in a Commission-accredited basic training,
3 Specialized Instructor Training course, pursuant to Rule 12 NCAC 09C .0401,
4 Commission-recognized in-service training course, or training course delivered pursuant
5 to 12 NCAC 09F .0101, 12 NCAC 09H, 12 NCAC 10B .0601, .1302, or .2005;

6 (B) a favorable written evaluation by a School Director, Qualified Assistant, In-Service
7 Training Coordinator, or another Specialized Instructor certified in the same specialized
8 subject, based on an on-site classroom evaluation of a presentation by the instructor in a
9 Commission-accredited basic training, Specialized Instructor Training, Commission-
10 recognized in-service training course, or in-service training course delivered pursuant to
11 12 NCAC 10B .0601, .1302, or .2005 during the three-year period of Specialized Instructor
12 Certification. Such evaluation shall be certified on a Criminal Justice Instructor Evaluation
13 Form F-16, located on the agency's website: <http://www.ncdoj.gov/getdoc/c2eba6aa-12bc-4303-bf4b-5fa0431ef5a1/F-16-6-11.aspx>;

14 (C) proof that the applicant has met the requirement set forth in Rule .0303(d) of this Section;

15 (D) proof that the individual applying for renewal as a Specialized Firearms Instructor has
16 achieved a minimum score of 92 on the day and night Basic Law Enforcement Training
17 firearms qualification courses, administered by a certified Specialized Firearms Instructor,
18 within the three-year period preceding the application for renewal;

19 (E) proof that the individual applying for renewal as a Specialized Physical Fitness Instructor
20 has passed the Basic Law Enforcement Training Police Officer Physical Abilities Test,
21 administered by a certified Specialized Physical Fitness Instructor, within the three-year
22 period preceding the application for renewal.

23 (F) proof that the individual applying for renewal as a Specialized Driver Instructor has
24 achieved the following minimum scores in accordance with the procedural and evaluative
25 requirements listed in the "Course Description Packet (CDP) for Driver Instructor
26 Certification Renewal" as published by the North Carolina Justice Academy within the
27 three-year period preceding the application for renewal.:

28 (1) minimum score of 85 on two out of three attempts for the "Off-Set Lane Maneuver"
29 and "Serpentine" courses during the daytime;

30 (2) a minimum score of 85 on two out of three attempts for the "Precision" course during
31 both day and night evaluation;

32 (3) a score of "Pass" on two out of three attempts for each command for the "Evasive
33 Action/Maneuver" course during the daytime;

34 (4) a score of Pass on two out of three attempts in each direction for the "Fixed Radius
35 Curve" course during the daytime, and.;

36 (5) evaluations will be administered by a certified Specialized Driving Instructor.
37

1 (G) proof that the individual applying for renewal as a Specialized SCAT Instructor has
2 satisfactorily completed the technique evaluations skills of the Basic Law Enforcement
3 Training SCAT courses, administered by a certified Specialized SCAT Instructor, within
4 the three-year period preceding the application for renewal.

5 (e) Certification as a Specialized Instructor in the First Responder, Physical Fitness, Explosive and Hazardous
6 Materials, and Juvenile Justice Medical Emergencies topic areas as outlined in Rule .0304(d)(1), (g)(2), (i)(1), and
7 (j)(1) of this Section shall remain in effect for 36 months from the date of issuance. During the 36 month term all
8 non-Commission certificates required in Rule .0304(d)(1), (g)(2), (i)(1), and (j)(1) for Specialized Instructor
9 certification in the First Responder, Physical Fitness, Explosive and Hazardous Materials, and Juvenile Justice
10 Medical Emergencies topical areas shall be maintained.

11 (f) Those individuals who have previously held Specialized Instructor Certification and have not exceeded a three
12 year time period from when his or her Specialized Instructor Certification expired are eligible to reapply for re-
13 issuance of the previously held Specialized Instructor Certification. An application for re-issuance shall contain
14 documentation that the applicant:

- 15 (1) holds a current General Instructor certification;
- 16 (2) has completed all pre-qualification requirements for that specialty;
- 17 (3) has passed the state examination for that specialty with a minimum score of 75;
- 18 (4) has completed eight hours of evaluated instruction in the specialty where re-issuance of certification
19 is taught, as documented on an F-16 located on the agency's website: [https://ncdoj.gov/law-](https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/)
20 [enforcement training/criminal-justice/forms-and-publications/](https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/). The eight hours of instruction shall
21 be taught within 60 days of the Specialized Instructor Certification being reissued and evaluated by
22 a Specialized Instructor certified in that specialty. Failure to complete the required eight hours of
23 evaluated instruction will result in the reissued Specialized Instructor Certification being revoked;
24 and
- 25 (5) has maintained non-Commission certificates required in Rule .0304(d)(1), (g)(2), (i)(1), and (j)(1)
26 for Specialized Instructor certification in the First Responder, Physical Fitness, Explosive and
27 Hazardous Materials, and Juvenile Justice Medical Emergencies topical areas.

28 (g) Applicants for re-issuance of the Specialized Instructor Certification shall have one opportunity to pass the
29 prequalification skills assessment and the state examination for that specialty. Should an applicant not achieve a
30 passing score on either the prequalification skills assessment or the state examination for that specialty, the applicant
31 shall complete the specific Specialized Instructor Course in its entirety.

32 (h) Applicants whose Specialized Instructor Certification is suspended or revoked shall not qualify for re-issuance.
33 The applicant shall complete the specific Specialized Instructor Course in its entirety.

34 (i) The use of guest participants in a delivery of the "Basic Law Enforcement Training Course" shall be permissible.
35 However, such guest participants are subject to the on-site supervision of a Commission-certified instructor and shall
36 be authorized by the School Director. A guest participant shall be used only to complement the primary certified
37 instructor of the block of instruction and shall not replace the primary instructor.

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History Note: Authority G.S. 17C-6;
Eff. January 1, 1981;
Amended Eff. January 1, 2017; February 1, 2016; August 1, 2015; May 1, 2014; June 1, 2012;
November 1, 2007; January 1, 2006; December 1, 2004; August 1, 2004; August 1, 2000; July 1,
1991; July 1, 1989; December 1, 1987; February 1, 1987;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,
2019;
Amended Eff. May 1, 2023; January 1, 2022; January 1, 2020; August 1, 2019.

1 **12 NCAC 09C .0311 is adopted as published in 37:11 NCR 784-791 as follows:**

2
3 **12 NCAC 09C .0311 RECERTIFICATION FOLLOWING SEPARATION**

4 (a) Previously certified juvenile court counselors, Chief Court Counselors, and juvenile justice officers with a
5 minimum of one year of service who have been separated from the North Carolina Department of Public Safety for
6 less than three years may have their certification reinstated following a reverification of employment standards as
7 outlined in 12 NCAC 09B .0116 and .0117, but are exempt from the job appropriate basic training course as described
8 in 12 NCAC 09B .0200

9 (b) Previously certified juvenile court counselors, Chief Court Counselors, and juvenile justice officers with less than
10 one year of service who have been separated from the North Carolina Department of Public Safety for less than two
11 years may have their certification reinstated following a reverification of employment standards as outlined in 12
12 NCAC 09B .0116 and .0117, and shall complete the job appropriate basic training course as described in 12 NCAC
13 09B .0200

14 (c) Previously certified juvenile court counselors, Chief Court Counselors, and juvenile justice officers who have
15 been separated from the North Carolina Department of Public Safety for more than three years, upon their return shall
16 complete the verification of employment standards as outlined in 12 NCAC 09B .0116 and .0117 and shall complete
17 the job appropriate basic training course described in 12 NCAC 09B .0200.

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19 History Note: Authority G.S. 17C-2; 17C-6; 17C-10;
20 Eff. May 1, 2023

1 **12 NCAC 09G .0102** is amended with changes as published in 37:11 NCR 784-791 as follows

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3 **12 NCAC 09G .0102 DEFINITIONS**

4 The following definitions apply throughout this Subchapter only:

- 5 (1) "Commission of an offense" means a finding by the North Carolina Criminal Justice Education and
6 Training Standards Commission or an administrative body that a person performed the acts
7 necessary to satisfy the elements of a specified offense.
- 8 (2) "Convicted" or "Conviction" means, the entry of:
9 (a) a plea of guilty;
10 (b) a verdict or finding of guilt by a jury, judge, magistrate, or other duly constituted,
11 established adjudicating body, tribunal, or official, either civilian or military; or
12 (c) a plea of no contest, nolo contendere, or the equivalent.
- 13 (3) "Correctional Officer" means an employee of the North Carolina Department of Public Safety,
14 Division of Adult Correction and Juvenile Justice, responsible for the custody of inmates or
15 offenders.
- 16 (4) "Corrections Officer" means either or both of the two classes of officers employed by the North
17 Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice:
18 correctional officer or probation/parole officer.
- 19 (5) "Criminal Justice System" means the whole of the State and local criminal justice agencies including
20 the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice.
- 21 (6) "Director" means the Director of the Criminal Justice Standards Division of the North Carolina
22 Department of Justice.
- 23 (7) "Educational Points" means points earned toward the State Correction Officers' Professional
24 Certificate Program for studies completed, with passing scores achieved, for semester hour or
25 quarter hour credit awarded from colleges or universities accredited by the Department of Education
26 of the state in which the institution is located, from an accredited body recognized by either the U.S.
27 Department of Education or the Council for Higher Education Accreditation, or from the state
28 university of the state in which the institution is located ~~at a regionally accredited institution of~~
29 ~~higher education~~. Each semester hour of college credit equals one educational point and each quarter
30 hour of college credit equals two-thirds of an educational point.
- 31 (8) "High School" means a high school that meets the compulsory attendance requirements in the
32 jurisdiction in which the school is located.
- 33 (9) "In-Service Training Coordinator" means a person designated by a Criminal Justice Agency head to
34 administer the agency's In-Service Training program.
- 35 (10) "Misdemeanor" ~~for corrections officers~~ means those criminal offenses not classified under the laws,
36 statutes, or ordinances as felonies. Misdemeanor offenses ~~for corrections officers~~ are classified by
37 the Commission as ~~the following as set forth in G.S. or other state or federal law:~~ follows:

1 (a) "Class A Misdemeanor" means a misdemeanor committed or omitted in violation of any
2 common law, duly-enacted ordinance, or criminal statute of this State that is not classified
3 as a Class B Misdemeanor pursuant to Sub-item ~~[(24)]-(10)(b) of this Rule. Class A~~
4 Misdemeanor also includes any act committed or omitted in violation of any common law,
5 duly enacted ordinance, criminal statute, or criminal traffic code of any jurisdiction other
6 than North Carolina, either civil or military, for which the maximum punishment allowable
7 for the designated offense under the laws, statutes, or ordinances of the jurisdiction in
8 which the offense occurred includes imprisonment for a term of not more than six months.
9 Excluded from "Class A Misdemeanor" criminal offenses for jurisdictions other than North
10 Carolina are motor vehicle or traffic offenses designated as misdemeanors under the laws
11 of other jurisdictions or duly enacted ordinances of an authorized governmental entity, with
12 the exception of the offense of impaired driving that is included herein as a Class A
13 Misdemeanor if the offender could have been sentenced for a term of not more than six
14 months. Also included herein as a Class A Misdemeanor is the offense of impaired driving,
15 if the offender was sentenced under punishment level three G.S. 20-179(i), level four G.S.
16 20-179(j), or level five G.S. 20-179(k). Class A Misdemeanor shall also include acts
17 committed or omitted in North Carolina prior to October 1, 1994, in violation of any
18 common law, duly enacted ordinance, or criminal statute of this State for which the
19 maximum punishment allowable for the designated offense included imprisonment for a
20 term of not more than six months.

21 (b) "Class B Misdemeanor" means an act committed or omitted in violation of any common
22 law, criminal statute, or criminal traffic code of this State that is classified as a Class B
23 Misdemeanor as set forth in the pertinent section of the Class B Misdemeanor Manual as
24 published by the North Carolina Department of Justice, incorporated herein by reference,
25 and shall include any later amendments and editions of the incorporated material as
26 provided by G.S. 150B-21.6. The publication is available from the Commission's website:
27 <http://www.ncdoj.gov/getdoc/60bb12ca-47c0-48cb-a0e3-6095183c4c2a/Class-B->
28 Misdemeanor-Manual-2005.aspx. Class B Misdemeanor also includes any act committed
29 or omitted in violation of any common law, duly enacted ordinance, criminal statute, or
30 criminal traffic code of any jurisdiction other than North Carolina, either civil or military,
31 for which the maximum punishment allowable for the designated offense under the laws,
32 statutes, or ordinances of the jurisdiction in which the offense occurred includes
33 imprisonment for a term of more than six months but not more than two years. Excluded
34 from this grouping of "Class B Misdemeanor" criminal offenses for jurisdictions other than
35 North Carolina, are motor vehicle or traffic offenses designated as being misdemeanors
36 under the laws of other jurisdictions with the following exceptions: Class B Misdemeanor
37 includes the following:

- (i) either first or subsequent offenses of driving while impaired if the maximum allowable punishment is for a term of more than six months but not more than two years;
- (ii) driving while license permanently revoked or permanently suspended;
- (iii) those traffic offenses occurring in other jurisdictions which are comparable to the traffic offenses specifically listed in the Class B Misdemeanor Manual; and
- (iv) an act committed or omitted in North Carolina prior to October 1, 1994, in violation of any common law, duly enacted ordinance, criminal statute, or criminal traffic code of this State for which the maximum punishment allowable for the designated offense included imprisonment for a term of more than six months but not more than two years.

- ~~(a) 14 2.5 Punishment for attempt (offenses that are Class A 1 misdemeanor)~~
- ~~(b) 14 32.1(f) Simple Assault on handicapped persons~~
- ~~(c) 14 33(b)(9) Assault, battery against sports official~~
- ~~(d) 14 33(e) Assault, battery with circumstances~~
- ~~(e) 14 34 Assault by pointing a gun~~
- ~~(f) 14 72 Larceny of property; receiving stolen goods etc.; not more than one thousand dollars (\$1000.00)(14 72(a))~~
- ~~(g) 14 72.1 Concealment of merchandise (14 72.1(e); third or subsequent offense)~~
- ~~(h) 14 76 Larceny, mutilation, or destruction of public records/papers~~
- ~~(i) CH 14 Art. 19A False/fraudulent use of credit device (14 113.6)~~
- ~~(j) CH 14 Art. 19B Financial transaction card crime~~
- ~~(k) 14 114(a) Fraudulent disposal of personal property on which there is a security interest~~
- ~~(l) 14 118 Blackmailing~~
- ~~(m) 14 118.2 Obtaining academic credit by fraudulent means (14 118.2(b))~~
- ~~(n) 14 122.1 Falsifying documents issued by a school (14 122.1(e))~~
- ~~(o) 14 127 Willful and wanton injury to real property~~
- ~~(p) 14 160 Willful and wanton injury to personal property greater than two hundred dollars (\$200.00)(14 160(b))~~
- ~~(q) 14 190.5 Preparation of obscene photographs~~
- ~~(r) 14 190.9 Indecent Exposure~~
- ~~(s) 14 190.14 Displaying material harmful to minors (14 190.14(b))~~
- ~~(t) 14 190.15 Disseminating harmful material to minors (14 190.15(d))~~
- ~~(u) 14 202.2 Indecent liberties between children~~
- ~~(v) 14 204 Prostitution~~
- ~~(w) 14 223 Resisting officers~~

1 ~~(ddd) 20 37.8(a) & (c) Fraudulent use of a fictitious name for a special identification card~~
2 ~~(eee) 20 102.1 False report of theft or conversion of a motor vehicle~~
3 ~~(fff) 20 111(5) Fictitious name or address in application for registration~~
4 ~~(ggg) 20 130.1 Use of red or blue lights on vehicles prohibited (20 130.1(e))~~
5 ~~(hhh) 20 137.2 Operation of vehicles resembling law enforcement vehicles~~
6 ~~(20 137.2(b))~~
7 ~~(iii) 20 138.1 Driving while impaired (punishment level 1 (20 179(g)) or 2~~
8 ~~(20 179(h))~~
9 ~~(jjj) 20 138.2(e) Impaired driving in commercial vehicle~~
10 ~~(kkk) 20 141.5(a) Speeding to elude arrest~~
11 ~~(lll) 20 166(b) Duty to stop in event of accident or collision~~
12 ~~(mmm) 20 166(c) Duty to stop in event of accident or collision~~
13 ~~(nnn) 20 166(c1) Duty to stop in event of accident or collision~~
14 ~~(ooo) 50B 4.1(a) Knowingly violating valid protective order~~
15 ~~(ppp) 58 33 105 False statement in applications for insurance~~
16 ~~(qqq) 58 81 5 Careless or negligent setting of fires~~
17 ~~(rrr) 14 111.4 Misuse of 911 system~~
18 ~~(sss) 90 95(d)(2) Possession of schedule II, III, IV~~
19 ~~(ttt) 90 95(d)(3) Possession of Schedule V~~
20 ~~(uuu) 90 95(d)(4) Possession of Schedule VI (when punishable as Class 1 misdemeanor)~~
21 ~~(vvv) 90 95(e)(4) Conviction of 2 or more violations of Art. 5~~
22 ~~(www) 90 95(e)(7) Conviction of 2 or more violations of Art. 5~~
23 ~~(xxx) 90 113.22 Possession of drug paraphernalia (90 113.22(b))~~
24 ~~(yyy) 90 113.23 Manufacture or delivery of drug paraphernalia (90 113.23(e))~~
25 ~~(zzz) 97 88.2(a) Misrepresentation to get worker's compensation payment less than four~~
26 ~~hundred dollars (\$400.00)~~
27 ~~(aaaa) 108A 39(a) Fraudulent misrepresentation of public assistance~~
28 ~~(bbbb) 108A 53 Fraudulent misrepresentation of electronic food and nutrition benefits~~
29 ~~(cccc) 108A 64 Medical assistance recipient fraud; less than four hundred dollars~~
30 ~~(\$400.00)(108 64(c)(2))~~
31 ~~(dddd) 108A 80 Recipient check register/list of all recipients of AFDC and state county~~
32 ~~special assistance (108A 80(b))~~
33 ~~(eeee) 108A 80 Recipient check register/ list of all recipients of AFDC and~~
34 ~~state county~~
35 ~~special assistance; political mailing list (108A 80(e))~~
36 ~~(ffff) 113 290.1(a)(2) Criminally negligent hunting; no bodily disfigurement~~
37 ~~(gggg) 113 290.1(a)(3) Criminally negligent hunting; bodily disfigurement~~

- 1 ~~(hhhh) 113-290.1(a)(4) Criminally negligent hunting; death results~~
- 2 ~~(iii) 113-290.1(d) Criminally negligent hunting; person convicted/suspended license~~
- 3 ~~(jjjj) 143-58.1(a) Use of public purchase or contract for private benefit (143-58.1(e))~~
- 4 ~~(kkkk) 148-45(d) Aiding escape or attempted escape from prison~~
- 5 ~~(llll) 162-55 Injury to prisoner by jailer~~
- 6 ~~(mmmm) Common Law misdemeanors:~~
- 7 ~~(i) Going Armed to the Terror of the People~~
- 8 ~~(ii) Common Law Mayhem~~
- 9 ~~(iii) False Imprisonment~~
- 10 ~~(iv) Common Law Robbery~~
- 11 ~~(v) Common Law Forgery~~
- 12 ~~(vi) Common Law Uttering of Forged paper~~
- 13 ~~(vii) Forceible Trespass~~
- 14 ~~(viii) Unlawful Assembly~~
- 15 ~~(ix) Common Law Obstruction of Justice~~
- 16 ~~(nnnn) Those offenses occurring in other jurisdictions that are comparable to the offenses~~
- 17 ~~specifically listed in (a) through (rrrr) of this Rule.~~
- 18 ~~(oooo) Any offense proscribed by 18 U.S.C. 922 (1996),~~
- 19 ~~([http://www.gpo.gov/fdsys/pkg/USCODE_2011_title18/pdf/USCODE_2011_title18_partI-](http://www.gpo.gov/fdsys/pkg/USCODE_2011_title18/pdf/USCODE_2011_title18_partI-chap44_sec922.pdf)~~
- 20 ~~chap44_sec922.pdf), that would prohibit possessing a firearm or ammunition.~~
- 21 (11) "Pilot Courses" means those courses approved by the Education and Training Committee, consistent
- 22 with 12 NCAC 09G .0404, which are used to develop new training course curricula.
- 23 (12) "Probation/Parole Officer" means an employee of the North Carolina Department of Public Safety,
- 24 Division of Adult Correction and Juvenile Justice, whose duties include supervising, evaluating, or
- 25 otherwise instructing offenders placed on probation, parole, post release supervision, or assigned to
- 26 any other community-based program operated by the Division of Adult Correction and Juvenile
- 27 Justice.
- 28 (13) "Qualified Assistant" means an additional staff person designated as such by the School Director to
- 29 assist in the administration of a course when a certified institution or agency assigns additional
- 30 responsibilities to the certified School Director during the planning, development, and
- 31 implementation of a certified course.
- 32 (14) "School" means an institution, college, university, academy, or agency that offers penal or
- 33 corrections training for correctional officers or probation/parole officers. "School" includes the
- 34 corrections training course curricula, instructors, and facilities.
- 35 (15) "School Director" means the person designated by the Secretary of the North Carolina Department
- 36 of Public Safety, Division of Adult Correction and Juvenile Justice to administer the School.

1 (16) "Standards Division" means the Criminal Justice Standards Division of the North Carolina
2 Department of Justice.

3 (17) "State Corrections Training Points" means points earned toward the State Corrections Officers'
4 Professional Certificate Program by completion of Commission-approved corrections training
5 courses. Twenty classroom hours of Commission-approved corrections training equals one State
6 Corrections training point.

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8 *History Note: Authority G.S. 17C-2; 17C-6; 17C-10; 153A-217;*
9 *Temporary Adoption Eff. January 1, 2001;*
10 *Eff. August 1, 2002;*
11 *Amended Eff. December 1, 2018; January 1, 2017; January 1, 2015; April 1, 2009; August 1, 2004;*
12 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*
13 *2019.*
14 *Amended Eff. May 1, 2023*

15

1 **12 NCAC 09C .0311 is adopted as published in 37:11 NCR 784-791 as follows:**

2
3 **12 NCAC 09C .0311 RECERTIFICATION FOLLOWING SEPARATION**

4 (a) Previously certified juvenile court counselors, Chief Court Counselors, and juvenile justice officers with a
5 minimum of one year of service who have been separated from the North Carolina Department of Public Safety for
6 less than three years may have their certification reinstated following a reverification of employment standards as
7 outlined in 12 NCAC 09B .0116 and .0117, but are exempt from the job appropriate basic training course as described
8 in 12 NCAC 09B .0200

9 (b) Previously certified juvenile court counselors, Chief Court Counselors, and juvenile justice officers with less than
10 one year of service who have been separated from the North Carolina Department of Public Safety for less than two
11 years may have their certification reinstated following a reverification of employment standards as outlined in 12
12 NCAC 09B .0116 and .0117, and shall complete the job appropriate basic training course as described in 12 NCAC
13 09B .0200

14 (c) Previously certified juvenile court counselors, Chief Court Counselors, and juvenile justice officers who have
15 been separated from the North Carolina Department of Public Safety for more than three years, upon their return shall
16 complete the verification of employment standards as outlined in 12 NCAC 09B .0116 and .0117 and shall complete
17 the job appropriate basic training course described in 12 NCAC 09B .0200.

18
19 History Note: Authority G.S. 17C-2; 17C-6; 17C-10;
20 Eff. May 1, 2023

1 12 NCAC 09G .0211 is adopted as published in 37:11 NCR 784-791 as follows:

2
3 **12 NCAC 09G .0211 AGENCY REPORTING OF DRUG SCREENING RESULTS**

4 (a) Every correctional or probation/parole officer shall have produced a negative result on a drug screen administered
5 according to the following specifications:

6 (1) the drug screen shall be a urine test consisting of an initial screening test using an immunoassay
7 method and a confirmatory test on an initial positive result using a gas chromatography/mass
8 spectrometry (GC/MS) or other initial and confirmatory tests authorized or mandated by the
9 Department of Health and Human Services for Federal Workplace Drug Testing Programs;

10 (2) a chain of custody shall be maintained on the specimen from collection to the eventual discarding
11 of the specimen. If the specimen is handled only by a medical professional or a third party provider
12 and the laboratory utilizes federally mandated chain of custody procedures, then the agency does
13 not need an inter-agency chain of custody procedure. If agency staff will be handling the urine
14 specimen at any point, then the agency needs a firmly established chain of custody
15 procedure;

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

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

23 (5) conduct the test within 90 days of certification;

24 (6) the laboratory conducting the test shall be certified for federal workplace drug testing programs, and
25 shall adhere to applicable federal rules, regulations, and guidelines pertaining to the handling,
26 testing, storage, and preservation of samples.

27 (b) The agency shall report in writing to the Criminal Justice Standards Division all refusals and all positive results
28 of required drug screening obtained from applicants. If the positive result was explained by the applicant to the
29 satisfaction of the agency's Medical Review Officer, who shall be a licensed physician, the positive results are not
30 required to be reported.

31 (c) The agency, if it conducts a drug screen for in-service officers, shall report in writing positive results or refusals to
32 submit to an in-service drug screening to the Criminal Justice Standards Division within 30 days of the positive result
33 or refusal, unless the officer has explained the positive result to the satisfaction of the agency's Medical Review
34 Officer, who shall be a licensed physician, to the extent the drug screen conducted conforms to the specifications of
35 this Rule.

1 (d) For reporting purposes, a result is considered "positive" only in those cases where the drug screen reveals the
2 presence of an illegal drug at a level equal to or greater than the threshold value as established by the Department of
3 Health and Human Services for Federal Workplace Drug Testing Programs and incorporated by reference in this Rule.

4 (e) For reporting purposes, a result is considered "negative" only in those cases where the drug screen reveals the
5 presence of an illegal drug at a level less than the threshold value as established by the Department of Health and
6 Human Services for Federal Workplace Drug Testing Programs and incorporated by reference in this Rule.

7 (f) All written reports required to be submitted to the Criminal Justice Standards Division by this Rule shall contain
8 the individual's name, date of birth, either the date the test was administered or the date of the refusal, and a copy of
9 the drug screen panel with the results of the medical officer review.

10

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

12 *Eff. May 1, 2023*

Title: Terms and Conditions of Specialized Instructor Certification; Definitions;
Background Investigation; Agency Reporting of Drug Screening Results;
Re-Certification After Separation

Agency: Criminal Justice Education and Training Standards Commission

Contact: Michelle Schilling

Impact Summary: State Government: No
Local Government: No
Substantial Impact: No
Small Business: No

12 NCAC 09B .0305 Terms and Conditions of Specialized Instructor Certification
12 NCAC 09G .0102 Definitions
12 NCAC 09G .0210 Background Investigation
12 NCAC 09G .0211 Agency Reporting of Drug Screening Results
12 NCAC 09C .0311 Recertification After Separation

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

*Rules begin on the following page