

MINUTES

North Carolina Criminal Justice Education and Training Standards Commission

Planning & Standards Committee

May 22, 2019

The Planning & Standards (P&S) Committee of the NC Criminal Justice Education and Training Standards (CJETS) Commission met at Wake Technical Community College, Public Safety Center, in Raleigh on May 22, 2019 at 10:00am.

Committee Members Present

Commissioner Jeff Welty (Chair), Commissioner Richard Epley, Commissioner Robert Hassell, Commissioner Teresa Jardon, Commissioner Randy Byrd, Commissioner Cerelyn Davis, Commissioner Leslie Cooley-Dismukes, Commissioner Andrew Hendry

Guests Present

Director Trevor Allen, NCJA, Commissioner Tracy McPherson, NC Community Colleges, Andrea Hyson, NC Community Colleges, Commissioner Stephanie Freeman, DACJJ, Mickey Biggs, Thomas Forrest, Tracy Lee, Maggie Brewer, Erica Zendt, Jenna Donald, Tony Taylor, John Warren, Haley Gingles, Elizabeth Morris, Susan Leonard

CJ Standards Staff Present

Steven Combs, Michelle Schilling, Richard Squires, Charminique Williams, Jason McIntyre, Dawn Suffel

Call to Order

Committee Chair Jeff Welty called the meeting to order and declared a quorum.

Approval of Minutes

<p>Motion to approve the February 2019 committee minutes was made by Commissioner Byrd and seconded by Commissioner Hassell. Motion carried.</p>

Rule-Making Hearing

Under separate cover.

Change to Interpretive Rule

The Committee considered a request from DACJJ for a change to the Interpretive Rule, which lists the job titles that fall under the Commission's jurisdiction. Commissioner Stephanie Freeman and Deputy Secretary Tim Moose spoke in favor of the change. The change would add the following categories of titles to the rule:

1. *Several positions in the Special Operations-Intelligence Unit.* This relatively new unit draws personnel from both community corrections and the prison system. DACJJ would like the personnel in the unit to be certified, but it would like to be able to pull personnel from both the correction officer and the probation officer ranks. It is

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therefore requested that a number of job titles within the unit be listed as titles under both the correction officer and the probation officer categories within the rule.

2. *Several management/supervisory positions in community corrections, up to and including the Director of Community Corrections.* Some management/supervisory positions in community corrections have been listed in the Interpretive Rule in the past, but they have not been listed recently. However, (1) the agency feels that supervisors and managers should be certified so that they will have the best insight into the positions that they are managing, and (2) supervisors and managers are increasingly involved in responding to prison escapes, serving warrants, and other field activities, meaning that the skills taught in certification classes will be job relevant.
3. *The Directors of CRV Facilities.* These facilities confine probation violators for short periods of time and as such fall at the intersection of community corrections and prisons. The directors of these facilities – there are four across the state – do not currently need to be certified but DACJJ thinks that they should be. DACJJ would like to be able to draw the Directors from both the correction officer and the probation officer ranks. It is therefore requested that the Director title be listed under both the correction officer and the probation officer categories within the rule.

The committee agreed with the requested changes be added as State Correctional Officer positions: CRV Facility Director; Director, Special Operations & Intelligence; Chief of Special Operations – Communications; Chief of Special Operations – Intelligence; Chief of Special Operations – Field Operations; Operations Specialist; Lead Criminal Analyst; Criminal Analyst; DCC Assistant Chief of Special Operations. And I move that the following be added as Probation/Parole Officer positions: CRV Facility Director; Director, Special Operations & Intelligence; Chief of Special Operations – Communications; Chief of Special Operations – Intelligence; Chief of Special Operations – Field Operations; Operations Specialist; Lead Criminal Analyst; Criminal Analyst; DCC Assistant Chief of Special Operations; Director, Division of Community Corrections; Deputy Director, Division of Community Corrections; Training Administrator; Special Populations Administrator; Judicial Division Administrator; Assistant, Judicial Division Administrator; Judicial District Manager; Assistant, Judicial District Manager

MOTION to adopt as presented by Commissioner Cooley-Dismukes, **seconded** by Commissioner Byrd. **Motion carried.**

February 2019 Rule-making Hearing Follow-up Public Comment 09G .0307(e)(5)

The committee considered proposed revisions to 13 rules at its February meeting, initially voting to recommend 11 of them for adoption by the full Commission. However, because the public comment period had not run at the time of the Commission’s February meeting, the committee did not present those 11 rule changes to the Commission in February, planning to do so in May. Subsequently, the committee received informal public comment on one rule and chose to reopen its discussion of that rule. That rule is 12 NCAC 09G .0307, regarding the certification of instructors on the corrections side. The main purpose of the proposed revision is to expressly prohibit sex between instructors and students, but the public comment identified several places where the proposed rule change could render the rule vague or ambiguous, including by adding language prohibiting conduct “detrimental to instruction” and “detrimental personal conduct.” In light of these comments, the committee decided not to recommend the rule change to the full Commission at this time.

MOTION to request that staff redraft the rule with specific language was by Commissioner Byrd **seconded** by Commissioner Epley. **Motion carried.**

That leaves 10 rules from the February meeting that the committee will forward to the full Commission on Friday. In summary:

- We recommend breaking **12 NCAC 09A .0107**, concerning rule-making procedures and administrative hearing procedures, into two rules for clarity: **.0107** concerning rule-making only and **.0207** concerning administrative hearings only.
- **12 NCAC 09B .0301**, concerning certification of instructors, provides that when a person loses his or her certification as an officer – whether under CJ Standards, the Fire Commission, or the EMS Commission – the person must notify us, and the person automatically loses his or her CJ instructor certification. We recommend expanding this provision to cover instructors whose “home” certification is a federal or out-of-state agency.
- **12 NCAC 09B .0303**, concerning terms and conditions of general instructor certification, requires probationary instructors to teach 8 hours within one year. We recommend allowing the Director of the Standards Division to extend this for up to one year for “just cause,” consistent with a similar provision that already exists for specialized instructors.
- **12 NCAC 09B .0503** concerns school directors, as does **12 NCAC 09G .0407** on the corrections side. We recommend that both rules be amended to require suspension, revocation, or denial of a school director’s certification if he or she fails to meet standards applicable to instructors.
- Two rules require that certain information regarding certification be kept by agencies – **12 NCAC 09C .0307** (for law enforcement) and **12 NCAC 09G .0306** (for corrections). We recommend some minor adjustments to those rules to make them more complete and consistent with current practice.
- We recommend updating the in-service training rule, **12 NCAC 09E .0105**, with the correct 2020 topics.
- We recommend amending **12 NCAC 09F .0105**, CCH instructor responsibilities, to allow CCH instructors to transfer unused completion certificates to other instructors with the consent of the Director of the Standards Division. The idea is to enable instructors who are getting out of the business to dispose of their certificates in an appropriate way so that they are not just floating around.

Psychological Evaluations

Guest representatives from the FMRT Group raised concerns in front of the committee about how DACJJ is planning to conduct psychological screenings of correction officer candidates. The relevant administrative rule requires that candidates “shall have been administered . . . a psychological screening examination.” (There is a similar rule for law enforcement.) Prior to 2014, DACJJ operated under the view that an “examination” did not require face-to-face contact, and in fact few candidates received face-to-face interviews, with most being assessed using written testing. From 2014-2018, DACJJ used a system that did involve face-to-face interviews of every candidate. Starting on June 1, 2019, it plans to return to evaluating most candidates based on written testing; only a small number of borderline candidates will have a face-to-face interview. After robust discussions from FMRT and from Commissioner Jane Gilchrist, on behalf of DACJJ, the committee asked staff to form an advisory group to look into how psychological screenings are and should be conducted. The group will include representation from corrections, psychology, and law enforcement. The group may generate a manual akin to the medical manual, or may recommend proposed code revisions to ensure that we are following best practices. The group may or may not recommend the same thing for both law enforcement and corrections.

Forms Changes/Giglio

Deputy Director Richard Squires advised that staff has continued to work with counsel to find language to address disclosure by agencies and by officers of sustained allegations of truthfulness. Changes would affect Forms F-3, F-5B, and F-8 and specifically ask officers whether they have been barred from testifying under Giglio and ask agencies the same question upon separation of an officer. The most recent draft presented to the committee is progressing and the committee requested staff to provide language in context in each of the forms at the August next meeting.

Request for Rule-Making Authority - 12 NCAC 09B .0302 General Instructor Certification

The committee discussed consideration of revision to this rule, which concerns law enforcement general instructor certification. The revision under consideration would make it easier for out of state instructors to come to North Carolina. Although the rule allows for “equivalent” out of state instructor training to substitute for our instructor training course, the rule also requires instructor to take the North Carolina instructor certification examination within 60 days of completing instructor training, which essentially prevents out of state instructors to qualify upon moving to NC.

Staff presented a proposed revision that would allow out of state instructors to take the North Carolina instructor certification test later, so long as they are or have been instructors in their home jurisdictions. The committee was sympathetic with the proposal but asked staff to prepare for committee discussion a version of the rule that would remove references in the rule to the “ISD model” and allow for recent out-of-state instructors to be certified.

BLET/Criminal Record Checks

Mr. Squires provided information about the progress of the advisory group regarding BLET candidates’ criminal record searches. Advisory group met recently and discussed current rule requirements and went over several recommendations that had been compiled by staff. Additional information from the SBI is expected. The committee agreed to discuss in further detail at a future date.

Next meeting.

The next meeting of the committee will be on August 14, 2019.

Meeting adjourned at approximately 2 p.m.