

Planning & Standards Committee Report

August 14, 2019

Submitted by Jeff Welty, Committee Chair

The Planning & Standards Committee met at the Wake Technical Community College Public Safety Center on Wednesday, August 14, 2019, from approximately 10:07 a.m. until 1:15 p.m. There was a quorum. The Committee approved the minutes of May 22, 2019, meeting. No corrections were noted. The Committee conducted the following business:

Commission Action Items

An Advisory Group had been formed regarding 12 NCAC 09B .0203 – Admission of Trainees: the group is working on how to make it simple, fast and less expensive for BLET trainees to ascertain that they do not have a criminal record. The Advisory Group made recommendations to a proposed rule revision. The Committee nominated Commissioners Leslie Cooley-Dismukes and Robert Hassell to review the rule and report to the Planning & Standards Committee in November of their findings.

Rule 12 NCAC 09B .0301 – Certification of Instructors (law enforcement) and 12 NCAC 09G .0307 – Certification of Instructors (Correction): staff has been working on drafting a rule addressing inappropriate relationships between Students and Instructors/School Directors/QAs. The Committee felt that additional revisions to improve reporting relationships to managing personnel and the Standards Division to include the nature of the relationship among the reportable items. Commissioner Cooley-Dismukes offered to work with staff to make revisions to both of the rules and report at the next meeting in November.

Rule 12 NCAC 09B .0302 – Instructor Certification: The Committee considered a proposed revision for current and recent out-of-state instructors to come to North Carolina, pass the instructor examination and become North Carolina instructors. The Committee voted to seek rule making authority to change the rule to allow individuals who have completed an instructor training course elsewhere that is equivalent to the Commission's, that they are certified as instructors by an out-of-state, federal, or military POST organization, or who have been certified in the last two years. They must pass the Commission's examination with at least a 75% score, to be certified as probationary instructor. A Motion was made by Commissioner Andrew Hendry to approve this revision; seconded by Commissioner Hassell. The Motion carried.

Rule 12 NCAC 09B .0314 – Certification of Diversion Investigators and Supervisors and 12 NCAC 09B .0315 – Terms and Conditions of Diversion Investigators and Supervisors Certification: The Committee considered a proposed new rule regarding .0314 that would require officers seeking certification as drug diversion investigators or supervisors to complete specified training. The investigator would need to complete 24 hours of classroom training. Supervisors would need four hours of online training, all to be authored by the Justice Academy. Rule 12 NCAC 09B .0315 was proposed to address the duration of certification and the process for recertification. The rule did not address whether refresher training would be required for recertification or what the duration of recertification would be. A Motion was made by Commissioner Trey Robison asked for rule making authority for 12 NCAC 09B .0314; however, the Committee asked staff to work with the N.C. State Bureau of Investigation for 12 NCAC 09B .0315

regarding the period of renewal; seconded by Commissioner Hendry. The Committee took no action as this time. The Motion carried.

Rule 12 NCAC 09E .0105 – Minimum Training Specifications: Annual In-Service Training: The Committee considered a proposed rule revision that would take the annual in-service training topics out of the Administrative Code and place them in a manual maintained by NCDOJ. This process would be much easier in that the topics would not need to go through rule making. The Commission would continue to set the topics each year, operating through the Joint In-Service Training Committee. The topics would be listed in the manual and not in the code. A Motion was made by Commissioner Cooley-Dismukes to approve this recommended rule revision and seconded by Commissioner Hassell. The Motion carried.

The Committee considered whether to recommend several changes to the Commission forms. These change discussions were between staff, the Commission, the District Attorneys and other parties concerning how to deal with officers who receive so-called Giglio letters or are otherwise prohibited from testifying under oath. A majority of the Committee voted to recommend the following changes: F-5B (Affidavit of Separation) – under “Reason for Separation” add two check boxes, one saying that the separating agency is, and one that the separating agency is not, aware of the officer being notified by a judge, prosecutor, or law enforcement representative that the officer is prohibited from testifying under oath or should not testify under oath. If the agency is aware of that, the form would ask for additional information. At the end of the form, add the statement, “Please indicate how the officer was notified [of his or her option to provide a written response/attachment to the F-5B],” with checkbox options for in person, mail, and other means. The form F-3 (Personal History Statement) – in the section of the form regarding the applicant’s education, add a question regarding whether the applicant has ever attended a BLET course before, and if so, why the applicant did not complete it successfully. In the section of the form regarding the applicant’s marital status, add a question regarding the phone number of the applicant’s spouse. Add a new question 29, asking whether the applicant has ever been notified by a judge, prosecutor, or law enforcement representative that he or she was prohibited from testifying under oath or should not testify under oath. If so, the form would ask for additional information. The form F-8 (Background Investigation) – in Questions 1 and 2 concerning record checks regarding the applicant, add a note indicating that the “Summary of Findings” for each question must list all criminal offenses found on criminal history checks. Add a new question 21, asking whether the applicant has ever been notified by a judge, prosecutor, or law enforcement representative that he or she was prohibited from testifying under oath or should not testify under oath. If so, the form would ask for additional information. In the section of the form regarding the applicant’s employment history check, add a question asking whether the applicant has ever been notified by a judge, prosecutor, or law enforcement representative that he or she was prohibited from testifying under oath or should not testify under oath. If so, the form would ask for additional information. A Motion was made by Commissioner Hassell and seconded by Commissioner Cooley-Dismukes to accept the changes as presented. The Motion carried.

Advisory Group/Psychological Screening – Director Steven Combs informed the Committee that an Advisory Group had been assembled to look into the issue of psychological screening for correctional officer applicants that was discussed at the last Committee meeting. Commissioner Hendry was appointed as chair of the advisory group.

Adjournment – The meeting adjourned at approximately 1:15 p.m.