

## **MINUTES**

### **North Carolina Criminal Justice Education and Training Standards Commission**

#### **Planning and Standards Committee**

**August 12, 2020**

The Planning & Standards (P&S) Committee of the North Carolina Criminal Justice Education and Training Standards (CJETS) Commission met at the Wake Technical Community College Public Safety Center on Thursday, August 12, 2020, at 10:04 a.m.

#### **Committee Members Present**

Commissioner Leslie Dismukes (Chair), Commissioner Robert Hassell, Commissioner Richard Epley, Commissioner David Rose, Commissioner Andrew Hendry, Commissioner Stella Patterson, Commissioner Andrew Gregson and Commissioner Stan Hicks.

#### **Guests Present**

Director Trevor Allen, NCJA, Commissioner Tracy McPherson, NC Community Colleges, Commissioner Steve Johnson, Commissioner Eddie Caldwell, Mr. Thomas Forrest, Pitt Community College, Commissioner Stephanie Freeman, Brenda Revera, Legal Staff, Jeff Welty, Mickey Biggs, John Midgette, Josh Hege, Commissioner Randy Byrd, Attorney Michael McGuinness.

#### **CJ Standards Staff Present**

Director Steven Combs, Deputy Director Michelle Schilling, Deputy Director Richard Squires, Charminique Williams, Alex Radford, and Jason McIntyre.

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#### **Call to Order**

Committee Chairman Leslie Dismukes called the meeting to order and declared a quorum.

#### **Approval of Minutes**

<p><b>Motion</b> to approve the May 20, 2020 committee minutes was made by Commissioner Richard Epley, seconded by Commissioner Robert Hassell. <b>Motion carried.</b></p>
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#### **Requests for Rulemaking Authority**

##### **12 NCAC 09A .0201 – Investigation of Violation of Rules**

The Committee considered revision to the rule that would remove language about the Attorney General authorizing the SBI to investigate, given that the SBI is no longer housed under the Department of Justice. A motion was made by Commissioner Hassell and seconded by

Commissioner Stella Patterson. The motion carried and the Committee reviewed revisions to the rule and approved the staff revisions.

### **Rulemaking Hearing**

The Committee conducted a public rulemaking hearing on nine (9) rules. Because many of the rules are “sister rules” for justice officers and corrections, the “sister rules” were considered together, and not in the order listed on the agenda. The Committee considered the following rules:

#### **12 NCAC 09B .0202 – Responsibilities of the School Director**

The Committee adopted the technical changes proposed by staff and considered the substantive changes to subsection (b)(10), which would require School Directors to report additional data at the beginning of BLET so that the Commission has accurate records regarding those individuals who start BLET and not just those who complete it. The Committee voted to recommend adoption of the proposed changes to the rule as set out in the packet along with the following changes:

- *Paragraph (10)(C): “Office” should be “Officer”*

A motion to adopt the above changes was made by Commissioner Hassell and seconded by Commissioner David Rose. The motion carries.

#### **12 NCAC 09B .0209 – Criminal Justice Instructor Training and 12 NCAC 09G .0414 – Instructor Training**

The Committee considered revisions to these rules based on pilot work done by the Instructor Training Working Group, who determined that the number of hours needed for Instructor Training should be 90 instead of 78. The revisions also suggested that some portions of the training be allowed to be conducted online. The Committee voted to recommend adoption of the proposed changes to the rule as set out in the packet along with the following changes:

- *09B .0209*
  - *Paragraph (a): lines 5 and 6 were changed to read “... shall consist of a minimum of 90 hours of instruction, as defined in subsection (c), within a 15-day period.”*
  - *Paragraph (d) was stricken from this provision and tabled for further development by the Education and Training Committee regarding how online training would be provided.*
- *09G .0414*
  - *Paragraph (a): lines 3 and 4 were changed to read “...shall consist of a minimum of 90 hours of instruction, as defined in 12 NCAC 09B .0209(c), to be completed within a 15-day period.”*
  - *Paragraph (c) was stricken as unnecessary in light of the revisions to paragraph (a)*
  - *Paragraph (d) now becomes paragraph (c)*

A motion to adopt the changed for rule 09B .0209 was made by Commissioner Patterson and seconded by Commissioner Epley. The motion carries.

A motion to adopt the changes for rule 09G .0414 was made by Commissioner Hassell and Seconded by Commissioner Epley. The motion carries.

### **12 NCAC 09B .0301 – Certification of Instructors and NCAC 09G .0307 – Certification of Instructors**

The Committee considered revisions to these rules in order to make them more readily understandable as well as to add in language for Instructors that had been previously added to the School Directors rule related to the conduct of relationships with students. The Committee voted to recommend adoption of the proposed changes to the rule as set out in the packet along with the following changes:

- *09G .0307*
  - *Paragraph (5)(d): line 10, remove “thus impeding the students’ ability to learn” and adding a semi-colon after “environment”*
  - *Paragraph (5)(e) and (f) should be underlined indicating that they are newly moved to that location*

A motion to adopt the changed for rule 09B .0301 was made by Commissioner Rose and seconded by Commissioner Hassell. The motion carries.

A motion to adopt the changes for rule 09G .0307 was made by Commissioner Hassell and seconded by Commissioner Patterson. The motion carries.

### **12 NCAC 09B .0410 – Criminal Justice Training Course and 12 NCAC 09G .0313 – Corrections Instructor Training Course**

The Committee considered revisions to these rules to simplify them by referring to 09B .0209 and to make them consistent with one another. The Committee voted to recommend adoption of the proposed changes to the rule as set out in the packet along with the following changes:

- *09G .0313*
  - *Paragraph (a)(2): amended to read “attain the passing score” instead of “attain the minimum score”*

A motion to adopt the changed for rule 09B .0410 was made by Commissioner Hassell and seconded by Commissioner Rose. The motion carries.

A motion to adopt the changes for rule 09G .0313 was made by Commissioner Patterson and seconded by Commissioner Hassell. The motion carries

### **12 NCAC 09B .0101 – Minimum Standards for Criminal Justice Officers and NCAC 09G .0302 Notification of Criminal Charges/Convictions**

The Committee considered revisions to these rules to make technical changes as well as to improve the readability/understandability of the rules. With respect to 09B .0101, the Committee also considered the addition of paragraph (9), which would require criminal justice officers to report to the Commission when they have been notified that they cannot testify as a law enforcement officer by certain court officials because of issues related to honesty, truthfulness, or credibility. There was extensive debate about this provision and the Committee heard from several members of the public. The Committee voted to recommend adoption of the proposed changes to the rule as set out in the packet along with the following changes:

- *09B .0101*
- *Paragraph (7): “communicate” should not be stricken*
- *Paragraph (7)(c): reference to DVPO was accidentally removed from this rule, add in a new (c) here to mirror the language in 09G .0302(3), “within thirty days of service, officers shall notify the Standards Division of all Domestic Violence Protective Orders (G.S. 50B) and Civil No Contact Orders (G.S. 50C) that are issued by a judicial official against the officer;”*
- *Paragraph (7)(c) becomes (7)(d)*
- *Paragraph (7)(d) becomes (7)(e)*
- *Paragraph (9) is stricken*

A motion to adopt the changed for rule 09B .0101 was made by Commissioner Rose and seconded by Commissioner Epley. The motion carries.

A motion to adopt the changes for rule 09G .0302 was made by Commissioner Hassell and seconded by Commissioner Epley. The motion carries.

#### **Committee Action Item:**

Director Combs brought before the Committee a proposal to request rulemaking authority with respect to the certification status for separated law enforcement officers in 12 NCAC 09B .0403. The Committee had several questions related to the timeframe of the rule, what particular physical fitness assessment was required, whether those simply “charged” with a crime should be prohibited, and whether these individuals should come back as probationary officers. The Committee requested that staff work on revisions and do some research before bringing back before the Committee to have us request rulemaking authority.

#### **Informational Item:**

The Chair informed Committee members of a proposal she has made to the Executive Committee to consider bylaws revisions that would allow officers to obtain a letter from the Commission when there has been a finding of no probable cause. This would allow officers to have something in writing from the Commission clearing them of any wrongdoing. In addition, the proposal suggests that officers be able to self-initiate PC proceedings if they want to try to clear their name. The Chair indicated that she would proceed with these bylaw revision proposals so that the

Commission would be ready in the event that we reconsider subsection (9) of 09B .0101 in the future.

**Next Meeting**

The next meeting of the committee will be on November 18, 2020.

The meeting adjourned at 1:51 pm