

12 NCAC 09B .0101 is proposed for amendment as follows:

**SUBCHAPTER 09B - STANDARDS FOR CRIMINAL JUSTICE EMPLOYMENT: EDUCATION: AND
TRAINING**

SECTION .0100 - MINIMUM STANDARDS FOR CRIMINAL JUSTICE EMPLOYMENT

**12 NCAC 09B .0101 MINIMUM STANDARDS FOR ~~CRIMINAL JUSTICE~~ LAW ENFORCEMENT
OFFICERS**

Every ~~criminal justice law enforcement~~ officer who is employed in or has received a conditional offer of employment for a certified position by an agency in North Carolina shall:

- (1) be a citizen of the United States;
- (2) be at least 20 years of age; ~~[and be at least 18 years of age for telecommunicators;]~~
- (3) be a high school graduate, or the equivalent as defined in 12 NCAC 09B .0106;
- ~~(3) be of good moral character pursuant to G.S. 17C-10 as evidenced by the following:~~
 - ~~(a) not having been convicted of a felony;~~
 - ~~(b) not having been convicted of a misdemeanor as defined in 12 NCAC 09B .0111(1) for five years or the completion of any corrections supervision imposed by the courts, whichever is later;~~
- ~~(4) have been fingerprinted by the employing agency in the manner provided in 12 NCAC 09B .0103;~~
- ~~(5) have had a medical examination as required by 12 NCAC 09B .0104;~~
 - ~~(e) not having been convicted of an offense that would prohibit the possession of a firearm or ammunition, under 18 U.S.C. 922, which is hereby incorporated by reference with subsequent amendments and editions and can be found at no cost at <https://www.govinfo.gov/content/pkg/USCODE-2018-title18/pdf/USCODE-2018-title18-partI-chap44.pdf>;~~
 - ~~(d) having submitted to and produced a negative result on a drug test within 60 days of employment or any in-service drug screening required by the appointing agency that meets the certification standards of the Department of Health and Human Services for Federal Workplace Drug Testing Programs. A list of certified drug testing labs that meet this requirement may be obtained, at no cost, at <https://www.samhsa.gov/programs-campaigns/drug-free-workplace/guidelines-resources/drug-testing/certified-lab-list>;~~
 - ~~(e) submitting to a background investigation consisting of the verification of age and education and a criminal history check of local, state, and national files;~~
 - ~~(f) being truthful in providing information to the appointing agency and to the Standards Division for the purpose of obtaining probationary or general certification;~~

- (g) — not having pending or outstanding felony charges that, if convicted of such charges, would disqualify the applicant from holding such certification, pursuant to G.S. 17C-13; and
- (h) — not having engaged in any conduct that brings into question the truthfulness or credibility of the officer, or involves "moral turpitude." "Moral turpitude" is conduct that is contrary to justice, honesty, or morality, including conduct as defined in: *In re Willis* 288 N.C. 1, 215 S.E. 2d 771 appeal dismissed 423 U.S. 976 (1975); *State v. Harris*, 216 N.C. 746, 6 S.E. 2d 854 (1940); *In re Legg*, 325 N.C. 658, 386 S.E. 2d 174 (1989); *in re Applicants for License*, 143 N.C. 1, 55 S.E. 635 (1906); *In re Dillingham*, 188 N.C. 162, 124 S.E. 130 (1924); *State v. Benbow*, 309 N.C. 538, 308 S.E. 2d 647 (1983); and later court decisions that cite these cases as authority.
- (4) — have been fingerprinted and a search made of local, state, and national files to disclose any criminal record;
- ~~(6)~~(5) have been examined and certified by a licensed surgeon, physician, physician assistant, or nurse practitioner to meet physical requirements necessary to fulfill the officer's particular responsibilities and shall have produced a negative result on a drug screen administered according to the following specifications: as described in 12 NCAC 09C .0310;
- (a) — the drug screen shall be a urine test consisting of an initial screening test using an immunoassay method and a confirmatory test on an initial positive result using a gas chromatography/mass spectrometry (GC/MS) or other initial and confirmatory tests authorized or mandated by the Department of Health and Human Services for Federal Workplace Drug Testing Programs;
- (b) — a chain of custody shall be maintained on the specimen from collection to the eventual discarding of the specimen;
- (c) — the drug screen shall test for the presence of at least cannabis, cocaine, phencyclidine (PCP), opiates, and amphetamines or their metabolites;
- (d) — the test threshold values meet the requirements established by the Department of Health and Human Services for Federal Workplace Drug Testing Programs, as found in 82 FR 7920 (2017) incorporated by reference, including later amendments and editions found at no cost at <https://www.federalregister.gov/documents/2017/01/23/2017-00979/mandatory-guidelines-for-federal-workplace-drug-testing-programs>;
- (e) — the test conducted shall be not more than 60 days old, calculated from the time when the laboratory reports the results to the date of employment; and
- (f) — the laboratory conducting the test shall be certified for federal workplace drug testing programs, and shall adhere to applicable federal rules, regulations, and guidelines pertaining to the handling, testing, storage, and preservation of samples;

- (7)(6) have been administered a psychological screening examination in accordance with G.S. 17C-10(c).
The psychological screening examination shall be valid for a period of one year from the date on
which it was administered.
- (8)(7) have been interviewed personally by the department head or the department head representative or
representatives to determine such things as the applicant's appearance, demeanor, attitude, and
ability to communicate; and as described in 12 NCAC 09B .0105; and
- (9) have a background investigation conducted by the employing agency, including a personal interview
as required by 12 NCAC 09B .0102;
- (10) not have committed or been convicted of a crime or crimes as specified in 12 NCAC 09B .0111;
- (11) for personnel who are authorized to carry a firearm in the execution of their duties, satisfactorily
complete the employing agency's in-service firearms training program as prescribed in 12 NCAC
09E .0105 and .0106. Such firearms training compliance must have occurred prior to submission of
the application for appointment to the Commission and must be completed using the agency
approved service handgun(s) and any other weapons(s) that the applicant has been issued or
authorized to use by the agency; and
- (12) be of good moral character as defined in : In re Willis 288 N.C. 1, 215 S.E. 2d 771 appeal dismissed
423 U.S. 976 (1975); State v. Harris, 216 N.C. 746, 6 S.E. 2d 854 (1940); In re Legg, 325 N.C. 658,
386 S.E. 2d 174(1989); in re Applicants for License, 143 N.C. 1, 55 S.E. 635 (1906); In re
Dillingham, 188 N.C. 162, 124 S.E. 130 (1924); State v. Benbow, 309 N.C. 538, 308 S.E. 2d 647
(1983); and later court decisions.
- (13)(8) make- Make the following notifications:
- (a) within 30 days five business days of the qualifying event notify the Standards Division and
the appointing ~~department~~ agency head in writing of all criminal offenses for which the
officer is charged or arrested. This shall include traffic offenses identified in the Class B
Misdemeanor Manual and offenses of driving under the influence (DUI) or driving while
impaired (DWI);
- (b) within 30 days five business days of the qualifying event notify the Standards Division and
the appointing ~~department~~ agency head in writing of all criminal offenses for which the
officer pleads no contest pleads guilty or of which the officer is found guilty. This shall
include traffic offenses identified in the Class B Misdemeanor Manual and offenses of
driving under the influence (DUI) or driving while impaired (DWI);
- (c) within 30 days five business days of service, officers shall notify the Standards Division of
all Domestic Violence Protective Order (G.S. 50B) and Civil No Contact Orders (G.S.
50C) that are issued by a judicial official against the officer;
- (d) within 30 days five business days of the date the case was disposed of in court, the
~~department~~ agency head, provided he or she has knowledge of the officer's arrests or

1 criminal charges and final dispositions, shall also notify the Standards Division of arrests
2 or criminal charges and final disposition;

3 (e) within ~~30 days~~ five business days of the issuance of all Domestic Violence Protective
4 Orders (G.S. 50B) and Civil No Contact Orders (G.S. 50C), the ~~department~~ agency head,
5 provided he or she has knowledge of the order, shall also notify the Standards Division of
6 these orders.

7 (9) (f) The required notifications in this Rule shall be in writing and shall specify the nature of the
8 offense or order, the court in which the case was handled, the date of the arrest, criminal
9 charge, or service of the order, and the final disposition. The notification shall include a
10 certified copy of the order or court documentation and final disposition from the Clerk of
11 Court in the county of adjudication. The requirements of this Item shall be applicable at all
12 times during which the officer is employed and certified by the Commission and shall also
13 apply to all applicants for certification. Receipt by the Standards Division of a single
14 notification, from the officer or the ~~department~~ agency head, shall be sufficient notice for
15 compliance with this Item.

16 (14) The requirements of this Rule shall apply to all applicants for certification and shall also apply at all
17 times during which the law enforcement officer is certified by the Commission.

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19 *History Note: Authority G.S. 17C-6; 17C-10;*
20 *Eff. January 1, 1981;*
21 *Amended Eff. April 1, 2018; October 1, 2017; September 1, 2001; April 1, 1999; January 1, 1995;*
22 *November 1, 1993; July 1, 1990;*
23 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*
24 *2019;*
25 *Amended Eff. October 1, 2020;*
26 *Temporary Amendment Eff. February 15, 2022.*
27 *Amended Eff. September 1, 2022;*
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12 NCAC 09B .0103 is proposed for amendment as follows:

12 NCAC 09B .0103 FINGERPRINT CRIMINAL HISTORY RECORD CHECK

(a) Each applicant for ~~employment certification~~ shall submit electronic fingerprints in the Statewide Automated Fingerprint Identification System (SAFIS), fingerprinted twice, using FBI Form FD-258, Fingerprint Record Card.

(b) The employing agency shall ~~check the applicant's fingerprints against local files and shall forward both completed the applicant's fingerprints fingerprint forms [record]~~ to the North Carolina State Bureau of Investigation for ~~fingerprint and a criminal history record check checks~~ utilizing fingerprints against state and federal files.

(c) The employing agency will receive a report of the results of the fingerprint criminal history record check utilizing fingerprints against state and federal files. ~~Regardless of the disposition of the inquiry, the~~ The employing agency shall ~~permanently~~ retain the results of the fingerprint criminal history record check utilizing fingerprints in the applicant's personnel file, compliance with the North Carolina Department of Natural and Cultural Resources Retention and Disposition Schedule established pursuant to G.S. Chapter 121 and G.S. Chapter 132. The employing agency shall include the results of the fingerprint criminal history record check with the applications submitted to the Commission.

(d) An applicant for ~~employment certification~~ as a law enforcement officer may not be employed or placed in a perform any action sworn law enforcement position requiring certification by the Commission prior to the date on which the employing agency ~~[and Standards Division]~~ receives the report of the results of the fingerprint criminal history record check utilizing fingerprints. ~~check unless all of the following requirements are met:~~

(1) — The employing department head determines that the delay in receiving the fingerprint record check will result in undue hardship to the agency and certifies that determination to the Commission.

(2) — The preliminary criminal history investigation conducted by the employing agency has failed to disclose any disqualifying criminal record.

(3) — The applicant meets all of the minimum standards for employment and certification contained in this Subchapter.

(4) — The Fingerprint Record Cards have in fact been executed, delivered to, and received by the State Bureau of Investigation for the purpose of a criminal history search.

(5) — The applicant has completed and signed the applicant's certificate (Section A) of the Commission's Report of Appointment, wherein the applicant's temporary employment and probationary law enforcement officer certification is acknowledged to be contingent on the consistency of the fingerprint record check with the information provided in the Personal History Statement Form.

(e) An applicant for employment as a criminal justice officer other than a law enforcement officer may be employed prior to the date on which the employing agency receives the report of the results of the fingerprint record check, if all of the following requirements are met:

(1) — The completed Fingerprint Record Cards have been forwarded to and received by the State Bureau of Investigation.

(2) — The applicant meets all other minimum requirements for employment and certification.

1 (3) — The applicant's continued employment is contingent upon the agency's review and evaluation of the
2 results of the fingerprint record check.
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4 *History Note: Authority G.S. 17C-6; 17C-10;*

5 *Eff. January 1, 1981;*

6 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*
7 *2019.*

8 *Amended Eff. Spetember 1, 2022;*
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