

12 NCAC 09A .0205 PERIOD OF SUSPENSION: REVOCATION: OR DENIAL

(a) When the Commission revokes or denies the certification of a criminal justice officer, the period of the sanction shall be permanent where the cause of sanction is:

- (1) commission or conviction of a felony offense, except as provided by G.S. 17C-13(a);
- (2) commission or conviction of a criminal offense for which punishment is authorized by law to include imprisonment for more than two years, except as provided by G.S. 17C-13(a); or
- (3) the second suspension of an officer's certification for any of the causes requiring a five-year period of suspension pursuant to 12 NCAC 09A .0204.

(b) When the Commission suspends or denies the certification of a criminal justice officer, the period of sanction shall be not less than five years; however, the Commission shall reduce or suspend the period of sanction or substitute a period of probation in lieu of suspension of certification, or impose a combination of reduction, suspension, or probation as determined on a case-by-case basis following a consent order or an administrative hearing, where the cause of sanction is:

- (1) commission or conviction of a criminal offense other than those listed in Paragraph (a) of this Rule;
- (2) refusal to submit to the applicant or lateral transferee drug screen required by these Rules;
- (3) production of a positive result on a drug screen reported to the Commission under 12 NCAC 09C .0310, where the positive result cannot be explained to the satisfaction of the agency's Medical Review Officer, who shall be a licensed physician;
- (4) material misrepresentation of any information required for certification or accreditation;
- (5) obtaining, attempting to obtain, aiding another person to obtain, or aiding another person to attempt to obtain credit, training or certification by any means of false pretense, deception, fraud, misrepresentation or cheating;
- (6) failure to make either of the notifications as required by 12 NCAC 09B .0101(13);
- (7) removal from office under the provisions of G.S. 128-16 or the provisions of G.S. 14-230;
- (8) performing activities or duties for which certification by the Commission is required without having first obtained the appropriate certification; or
- (9) commission or conviction of four or more crimes or unlawful acts defined as "Class B misdemeanors" in 12 NCAC 09A .0103(24)(b), regardless of the date of conviction.

(c) When the Commission suspends or denies the certification of a criminal justice officer, the period of sanction shall be for an indefinite period, but continuing so long as the stated deficiency, infraction, or impairment continues to exist, where the cause of sanction is:

- (1) failure to meet or satisfy relevant basic training requirements pursuant to 12 NCAC 09B .0205, .0225, .0235, and .0236;
- (2) failure to meet or maintain the minimum standards of employment pursuant to 09B .0101, .0111, .0114, .0116, .0117;
- (3) discharge from a criminal justice agency for impairment of physical or mental capabilities; or
- (4) failure to meet or satisfy the in-service training requirements as prescribed in 12 NCAC 09E.

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

Eff. January 1, 1981;

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

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