

## **12 NCAC 10B .0103      DEFINITIONS**

In addition to the definitions set forth in G.S. 17E-2, the following definitions apply throughout this Chapter, unless the context requires otherwise:

- (1) "Appointment" as it applies to a deputy sheriff means the date the deputy's oath of office is administered; and as it applies to a detention officer means either the date the detention officer's oath of office was administered, if applicable, or the detention officer's actual date of employment as reported on the Report of Appointment (Form F-4) by the employing agency, whichever is earlier; and as it applies to a telecommunicator, the telecommunicator's actual date of employment as reported on the Report of Appointment (Form F-4T).
- (2) "Commission" as it pertains to criminal offenses means a finding by the North Carolina Sheriffs' Education and Training Standards Commission or an administrative body, pursuant to the provisions of G.S. 150B, that a person performed the acts necessary to satisfy the elements of a specified criminal offense.
- (3) "Convicted" or "Conviction" means for purposes of this Chapter, the entry of:
  - (a) a plea of guilty;
  - (b) a verdict or finding of guilt by a jury, judge, magistrate, or other adjudicating body, tribunal, or official, either civilian or military; or
  - (c) a plea of no contest, nolo contendere, or the equivalent.
- (4) "Department Head" means the chief administrator of any criminal justice agency or communications center. Department head includes the sheriff or a designee appointed in writing by the Department head.
- (5) "Deputy Sheriff" means any person who has been duly appointed and sworn by the sheriff and who is authorized to exercise the powers of arrest in accordance with the laws of North Carolina.
- (6) "Detention Officer" means any person performing responsibilities, either on a full-time, part-time, permanent or temporary basis, which includes the control, care, and supervision of any inmates incarcerated in a county jail or other confinement facility under the direct supervision and management of the sheriff. "Detention Officer" shall also mean the administrator and the other custodial personnel of district confinement facilities as defined in G.S. 153A-219.
- (7) "Director" means the Director of the Sheriffs' Standards Division of the North Carolina Department of Justice.
- (8) "Division" means the Sheriffs' Standards Division.
- (9) "Dual Certification" means that a justice officer holds probationary, general, or grandfather certification in two or more of the following positions with the same agency:
  - (a) deputy sheriff;
  - (b) detention officer;
  - (c) telecommunicator.
- (10) "Enrolled" means that an individual is currently participating in an on-going presentation of a commission-certified basic training course which has not been concluded on the day probationary certification expires.
- (11) "Essential Job Functions" means those tasks deemed by the agency head to be necessary for the proper performance of a justice officer.
- (12) "Felony" means any offense designated a felony by the laws, statutes, or ordinances of the jurisdiction in which the offense occurred.
- (13) "General Powers of Arrest" means the authority to enforce the state or federal laws within the officer's territorial and subject matter jurisdiction to include the authority to arrest and cite offenders under the laws of the jurisdiction. These powers must be conferred on the officer by virtue of occupying a sworn law enforcement position. General powers of arrest means those powers, even though limited by subject matter jurisdiction, which may be exercised as a routine responsibility of the office. General powers of arrest does not mean those powers of arrest conferred by virtue of a special appointment or those granted as an incidental, as opposed to a primary, function of the office.
- (14) "High School Graduation" means successful completion of all requirements for either public or non-public schools, including passing any required competency tests, established by the State Board of Education or other entity having jurisdiction where the student graduated at the time the student finished high school. A certificate or diploma reflecting the person accomplished some but

not all graduation requirements is not sufficient. The high school must meet the compulsory attendance requirements in the jurisdiction in which the school is located.

- (15) "In-Service Training Coordinator" means the person designated by the Department Head to administer the agency's in-service training program.
- (16) "Lateral Transfer" means certification of a justice officer when the applicant for certification has previously held general or grandfather certification as a justice officer or a criminal justice officer as defined in G.S. 17C-2(3) excluding state correctional officers, state probation/parole officers, and state youth services officers, provided the applicant has been separated from a sworn law enforcement position for no more than one year, or has had no break in service.
- (17) "Misdemeanor" means those criminal offenses not classified by the North Carolina General Statutes, the United States Code, the common law, or the courts as felonies. Misdemeanor offenses are classified by the Commission as follows:
  - (a) "Class A Misdemeanor" means:
    - (i) an act committed or omitted in violation of any common law, duly enacted ordinance or criminal statute of this state which is not classified as a Class B Misdemeanor pursuant to Sub-item (17)(b) of this Rule. Also specifically included herein as a Class A Misdemeanor is the offense of driving while impaired, if the offender was sentenced under punishment level three [G.S. 20-179(i)], level four [G.S. 20-179(j)], or level five [G.S. 20-179(k)]. All other traffic offenses under Chapter 20 (motor vehicles) are not classified as Class A Misdemeanors.
    - (ii) acts committed or omitted in North Carolina prior to October 1, 1994 in violation of any common law, duly enacted ordinance or criminal statute, of this state for which the maximum punishment allowable for the designated offense included imprisonment for a term of not more than six months. Also specifically included herein as a Class A Misdemeanor is the offense of driving while impaired, if the offender was sentenced under punishment level three [G.S. 20-179(i)], level four [G.S. 20-179(j)], or level five [G.S. 20-179(k)]. All other traffic offenses under Chapter 20 (motor vehicles) are not classified as Class A Misdemeanors.
    - (iii) any act committed or omitted in violation of any common law, duly enacted ordinance, criminal statute of any jurisdiction other than North Carolina, either civil or military, for which the maximum punishment allowable for the designated offense under the laws, statutes, or ordinances of the jurisdiction in which the offense occurred includes imprisonment for a term of not more than six months. Specifically excluded from this grouping of "Class A Misdemeanor" criminal offenses for jurisdictions other than North Carolina, are motor vehicle or traffic offenses designated as misdemeanors under the laws of other jurisdictions, or duly enacted ordinances of an authorized governmental entity with the exception of the offense of driving while impaired which is expressly included herein as a class A misdemeanor, if the offender could have been sentenced for a term of not more than six months.
  - (b) "Class B Misdemeanor" means:
    - (i) an act committed or omitted in violation of any common law, criminal statute, or criminal traffic code of this state which is classified as a Class B Misdemeanor as set forth in the "Class B Misdemeanor Manual" as published by the North Carolina Department of Justice and shall automatically include any later amendments and editions of the incorporated material as provided by G.S. 150B-21.6. Copies of the publication may be obtained from the North Carolina Department of Justice, Post Office Box 629, Raleigh, North Carolina 27602. There is no cost per manual at the time of adoption of this Rule.
    - (ii) acts committed or omitted in North Carolina prior to October 1, 1994 in violation of any common law, duly enacted ordinance, or criminal statute, of this state for which the maximum punishment allowable for the designated offense included imprisonment for a term of more than six months but not more than two years. Specifically excluded from the grouping of "Class B misdemeanors"

committed or omitted in North Carolina prior to October 1, 1994 are motor vehicle or traffic offenses designated as being misdemeanors under G.S. 20 (motor vehicles), with the following exceptions: "Class B misdemeanors" committed or omitted in North Carolina prior to October 1, 1994 expressly include, either first or subsequent offenses of G.S. 20-138(a) or (b), G.S. 20-166 (duty to stop in the event of an accident), G.S. 20-138.1 (impaired driving) if the defendant was sentenced under punishment level one [G.S. 20-179(g)] or punishment level two [G.S. 20-179(h)] for the offense, and shall also include a violation of G.S. 20-28(b) [driving while license permanently revoked or suspended].

- (iii) any act committed or omitted in violation of any common law, duly enacted ordinance, or criminal statute of any jurisdiction other than North Carolina, either civil or military, for which the maximum punishment allowable for the designated offense under the laws, statutes, or ordinances of the jurisdiction in which the offense occurred includes imprisonment for a term of more than six months but not more than two years. Specifically excluded from this grouping of "Class B Misdemeanor" criminal offenses for jurisdictions other than North Carolina, are motor vehicle or traffic offenses designated as being misdemeanors under the laws of other jurisdictions with the following exceptions: Class B Misdemeanor does expressly include, either first or subsequent offenses of driving while impaired if the maximum allowable punishment is for a term of more than six months but not more than two years, and driving while license permanently revoked or permanently suspended.
- (18) "Qualified Assistant" means an additional staff person designated as such by the School Director to assist in the administration of a course when justification of demonstrated need has been provided to the Division.
- (19) "Sworn Law Enforcement Position" means a position with a criminal justice agency of the United States, any state, or a political subdivision of any state which, by law, has general power of arrest and requires each of the following:
  - (a) successful completion of the Basic Law Enforcement Training curriculum offered by the respective state or federal entity; and
  - (b) an independent oath of office providing for the execution of the laws of the respective state or federal jurisdiction.
- (20) "Telecommunicator" means any person performing responsibilities, either on a full-time, part-time, permanent or temporary basis, for communication functions to include receiving calls or dispatching for emergency and law enforcement services.
- (21) "Unprofessional Personal Conduct" means an act that is:
  - (a) conduct for which no reasonable person should expect to receive prior warning;
  - (b) job-related conduct which constitutes a violation of State or federal law;
  - (c) conviction or commission of a criminal offense as set out in 12 NCAC 10B .0204;
  - (d) the willful violation of Rules of this Chapter;
  - (e) conduct that is detrimental to instruction in the Commission's mandated courses;
  - (f) the abuse of client(s), student(s) or person(s) over whom the instructor has charge; or
  - (g) falsification of an instructor application or in other employment documentation.

*History Note:* Authority G.S. 17E-7;  
 Eff. January 1, 1989;  
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 Temporary October 1, 1994 for a period of 180 days or until the permanent rule become effective whichever is sooner;  
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 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018;

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