

ARTICLE 109-01 GENERAL ADMINISTRATION

Chapter

09-01-01 Organization of the Board

CHAPTER 109-01-01 ORGANIZATION OF THE BOARD

Section

109-01-01-01 History and Function

109-01-01-02 Board Membership

109-01-01-03 Board Meetings

109-01-01-04 Inquiries

109-01-01-01. History and function.

1. In 1981 the legislative assembly established a peace officer standards and training board under the law enforcement standards training and statistics division of the office of attorney general. In 2003 the legislative assembly repealed the statutory provisions relating to the law enforcement standards training and statistics division and established separate statutory authority for the board.

2. The function of the peace officer standards and training board is to prescribe criteria for certification of peace officer training, instructors, and schools, to certify curriculum, schools, and officers that have met the training certification criteria, to establish curriculum for peace officer training, to prescribe minimum standards for sidearm training and licensing for peace officers, to issue peace officer licenses to persons who meet board-prescribed peace officer standards, training, and licensing requirements, and to take adverse license action for violations of state and federal laws and the rules of the board.

History: Effective October 1, 2004; amended effective April 1, 2014. General

Authority: NDCC 28-32-02 Law Implemented: NDCC 28-32-02

109-01-01-02. Board membership.

1. The peace officer standards and training board consists of nine members, including the director of the ~~highway patrol~~ state law enforcement training center, six peace officers, one county government representative, and one city government representative
2. With the exception of the director of the ~~highway patrol~~ state law enforcement training center, all members of the peace officer standards and training board must be appointed by the attorney general and serve staggered two-year terms.
3. Peace officers appointed by the attorney general may serve no more than three consecutive terms.
4. The attorney general shall appoint the chairman of the board.
5. The office of attorney general shall provide support staff to the board, including an employee to serve as the secretary to the board and as an ex officio nonvoting member of the board.

History: Effective October 1, 2004. General Authority: NDCC 28-32-02 Law Implemented: NDCC 12-63-01.1, 28-32-02

109-01-01-03. Board meetings.

The board meets quarterly and when called at the direction of the board chairman.

History: Effective October 1, 2004. General Authority: NDCC 28-32-02 Law Implemented: NDCC 28-32-02

109-01-01-04. Inquiries.

1. All inquiries regarding the peace officer standards and training board may be addressed to the secretary of the board. All requests for hearings and for participating in rulemaking may be addressed to the secretary of the board, unless specific public notice provides otherwise.

2. Correspondence is to be addressed to the board as follows: Secretary Peace Officer Standards and Training Board ~~4205 State Street~~ 1720 Burlington Drive, Bismarck, ND 58504 or P.O. Box 1054 Bismarck, ND 58502-1054

History: Effective October 1, 2004. General Authority: NDCC 28-32-02 Law Implemented: NDCC 28-32-02

ARTICLE 109-02 PEACE OFFICER STANDARDS

Chapter

- 109-02-01 General Provisions
- 109-02-02 Licensing and Training Requirements
- 109-02-03 Minimum Standards of Training Prior to Carrying a Weapon
- 109-02-04 Instructor and Training Course Certification
- 109-02-05 Peace Officer Code of Conduct and Oath

CHAPTER 109-02-01 GENERAL PROVISIONS

Section

- 109-02-01-01 Definitions
- 109-02-01-01.1 Application of Chapter to Part-Time Peace Officer License
- 109-02-01-02 Criminal History Background Investigation Required
- 109-02-01-03 Minimum License Requirements
- 109-02-01-04 Other License Requirements
- 109-02-01-04.1 Other Reserve Peace Officer License Requirements
- 109-02-01-05 Agency's Responsibility
- 109-02-01-06 Record of Certified Instructors and Shooting Courses [Repealed]
- 109-02-01-07 Waiver
- 109-02-01-08 Additional Agency Requirements
- 109-02-01-09 Hearings and Appeals

109-02-01-01. Definitions.

The terms used throughout this article have the same meaning as in the North Dakota Century Code except:

1. "Agency" means a criminal justice agency, or an agency of the state of North Dakota or one of its political subdivisions, authorized to employ licensed peace officers. For purposes of this title, an agency includes the North Dakota stockmen's association and a railroad that employs licensed peace officers.
2. "Basic full-time peace officer training course" means a board-certified entrance-level training course based on performance objectives essential for full-time licensed peace officers in the state of North Dakota.
3. "Basic part-time peace officer training course" means a board-certified entrance-level training course based on performance objectives essential for part-time licensed peace officers in the state of North Dakota.
4. "Basic reserve peace officer training course" means a board-certified entrance-level training course based on performance objectives essential for reserve licensed peace officers in the state of North Dakota.
45. "Certified instructor" means an instructor certified by the board to instruct law enforcement or basic correctional officer training courses.
56. "Certified shooting course" means a shooting course that meets the requirements of these rules.
67. "Certified training" means training approved by the board.
78. "College credits" means credits earned for studies satisfactorily completed through an accredited institution of higher learning in a program leading to an academic degree.
89. "Controlling agent" means the peace officer who is the main point of contact with the confidential informant for the controlled buy, controlled sale, or in-person surreptitious recording.
910. "Crime of violence" means any violation of law where a person purposely or knowingly causes or threatens to cause death or physical bodily injury to another person or persons.

~~10~~11. "Criminal justice agency" means a unit of government of the state of North Dakota or one of its political subdivisions charged by law with criminal law enforcement duties.

~~11~~12. "Duty equipment" means the equipment issued or approved by the ~~peace~~ officer's employing agency and normally carried by a ~~peace~~ officer in the performance of the ~~peace~~ officer's duties.

~~12~~13. "Duty weapon" means the sidearm issued or approved by the ~~peace~~ officer's employing agency and normally carried by the ~~peace~~ officer in the performance of the ~~peace~~ officer's duties.

~~13~~14. "~~Full-time peace officer~~" means a full-time salaried public servant employed by an agency of the state of North Dakota or one of its political subdivisions, or a ~~peace officer employed by the North Dakota stockmen's association or a railroad, to enforce the law or to conduct or engage in investigations or prosecutions for violations of law.~~

"Good standing" means an individual who holds a current license that is not issued on a temporary or restricted basis, is not encumbered or on probation, and is not suspended or revoked.

~~14~~15. "Law enforcement training academy" means the ~~highway patrol~~ state law enforcement training center.

~~15~~16. "License requirement" means any term or condition established by the board that must be met before the board may issue, renew, or reinstate an peace officer's license.

~~16~~17. "Limited license" means a conditional license granted by the board to an individual who has been hired or appointed by an agency but who has not completed a basic full-time peace officer training course and has not successfully passed the licensing examination.

~~17~~18. "Moral turpitude" means conduct that:
a. Involves dishonesty, falsification or fraud;

- b. Involves harm or injury directed to another individual or entity or another individual's or entity's property; or
- c. Is in violation of North Dakota Century Code chapter 12.1-20, 12.1-27.1, or 12.1-27.2 or the equivalent laws of another state or the federal government.

19. "Officer" includes all categories of P.O.S.T. licensees.

20. "On-line training" means computer-based training, distance learning, or e-learning, in a form that takes place completely on the internet. It involves a variety of multi-media elements including graphics, audio, video, and weblinks, which all can be accessed through an internet browser. For the purposes of continuing education credit, any course of instruction that allows for real-time instructor interaction with the student shall not be considered "on-line training".

~~18~~21. "Part-time peace officer" means a public servant who has a part-time peace officer license and is employed or appointed by a criminal justice agency of the state of North Dakota or one of its political subdivisions to enforce the law or to conduct or engage in investigations or prosecutions for violations of law within the scope of the part-time peace officer's training.

~~19~~22. "Peace officer" means a ~~salaries~~ public servant employed by a criminal justice agency of the state of North Dakota or one of its political subdivisions, or a peace officer employed by the North Dakota stockmen's association or a railroad, to enforce the law or to conduct or engage in investigations or prosecutions for violations of law.

~~20~~23. "Peace officer license" means a license issued by the board.

24. Reserve peace officer" means a volunteer or employee of a criminal justice agency of the state of North Dakota or one of its political subdivisions who has a reserve peace officer license to enforce the law.

25. Reserve peace officer license" means a license issued by the board.

~~21~~26. "School" means a facility, agency, or academy that conducts board-certified basic, advanced, and specialized peace officer training courses or basic correctional officer training courses.

~~2227~~. "Sidearm" means a handgun, including a semiautomatic handgun or revolver, carried by an ~~peace~~ officer as the officer's authorized duty weapon.

~~2328~~. "Sidearm qualification" means the test an ~~peace~~ officer must complete on a certified shooting course with the ~~peace~~ officer's duty weapon.

~~2429~~. "Training provider" means an individual, school, facility, or academy that conducts certified basic, advanced, specialized ~~peace~~ officer training courses, or basic correctional officer training courses.

~~2530~~. "Weapon" includes a handgun, shotgun, and rifle.

History: Effective October 1, 2004; amended effective July 1, 2006; April 1, 2014; July 1, 2018.

General Authority: NDCC 12-63-02.1(7), 12-63-04(2)(d) Law Implemented: NDCC 12-44.1-01(10), 12-44.1-04(4), 12-63-02.1, 12-63-04

109-02-01-01.1. Application of chapter to all part-time peace officer licensees.

The provisions of this chapter apply to all part-time peace officers' licensees and ~~peace~~ officers who have been issued a ~~part-time peace officer~~ license unless otherwise provided for in this chapter.

History: Effective July 1, 2006. General Authority: NDCC 12-63-02.1(7) Law Implemented: NDCC 12-63-02.1

109-02-01-02. Criminal history ~~b~~Background investigation required.

1. The agency shall conduct a criminal history background investigation when the agency hires or appoints an individual to perform ~~peace~~ officer duties by ~~The agency shall file verification of the completed criminal history background investigation and results on a form provided by the board. In addition to the form required, the agency shall~~ submitting a complete set of the individual's fingerprints and all other information necessary to complete a state and nationwide criminal history record check with the bureau of criminal

investigation. The agency shall file verification of the completed criminal history background investigation and results on a form provided by the board.

2. A school shall conduct a criminal history background investigation on each enrollee in the school, unless the enrollee has a limited license or is attending the state law enforcement training academy by. ~~The school shall file verification of the completed criminal history background investigation and results on a form provided by the board. In addition to the form required, the school shall require each enrollee to submitting~~ a complete set of the enrollee's fingerprints and all other information necessary to complete a state and nationwide criminal history record check with the bureau of criminal investigation.

History: Effective October 1, 2004; amended effective April 1, 2014. General Authority: NDCC 12-63-04(2)(d) Law Implemented: NDCC 12-63-04(1)(a), 12-63-06(3)

109-02-01-03. Minimum license requirements.

An applicant for an peace officer license and all licensees:

1. Must be a United States citizen, or in resident alien status, as defined by United States citizenship and immigration services laws and regulations.
2. Must be a high school graduate, have a high school equivalency diploma (HSED) or have a general educational development (GED) certificate.
3. Must not have pled guilty to, pled nolo contendere to, or have been found guilty, in any state or federal court, of any felony offense.
4. Must not have pled guilty to, pled nolo contendere to, or have been convicted in any state or federal court of ~~an~~ offenses involving moral turpitude, theft, sexual violations, an offense involving domestic violence, ~~or~~ violation of a domestic violence restraining order, ~~an offense involving~~ child abuse or neglect, ~~an offense involving~~ firearms under North Dakota Century Code title 12.1 or 62.1, or any other criminal offense the board determines has a direct bearing on the applicant's or licensee's ability to serve as an peace officer.

5. Must not be prohibited from using or possessing a firearm ~~under state or federal law.~~

6. Must have a valid driver's license issued in the United States.

7. Must have undergone a criminal history background investigation by the employing agency and have fingerprint clearance from the North Dakota bureau of criminal investigation and the United States department of justice federal bureau of investigation.

8. Must have passed a medical examination and psychological examination. The psychological examination must be administered by a board-approved psychological provider. Only physicians (M.D. & D.O), nurse practitioners and physician assistants are authorized to administer medical examinations for the board. The psychological and medical examinations remain valid for one year from the examination date.

9. Must be employed or appointed as a full-time peace officer by an agency, ~~or for a part-time peace officer license, employed or appointed by an agency.~~

10. Must not be prohibited from access to national crime information center and criminal justice information sharing databases.

11. Must not have been dishonorably discharged or administratively discharged from United States military service for conduct that would be in violation of the ~~peace officer~~ code of conduct.

12. ~~Shall submit all required documentation and application materials to the board no less than five days prior to attendance of any required basic peace officer training course.~~

Must be in good standing with all applicable law enforcement licensing authorities

13. Must pass the use of force examination and meet the sidearm qualification standards.

History: Effective October 1, 2004; amended effective July 1, 2006; April 1, 2014.
General Authority: NDCC 12-63-02.1(7), 12-63-04(2)(d) Law Implemented: NDCC
12-63-02.1, 12-63-04, 12-63-12

DRAFT

109-02-01-04. Other license requirements.

1. In addition to other requirements of law when an agency employs or appoints an individual to be an peace officer, the agency shall notify the board of the employment of the individual on a form provided by the board and verify that the individual meets the requirements of North Dakota Century Code chapter 12-63 and these rules before the individual may begin performing peace officer duties. The agency shall submit on a form provided by the board verification of completion of the criminal history background investigation, medical examination, and psychological examination. The agency shall also forward a complete record of the individual's previous training and law enforcement experience to the board.

2. Only a salaried peace officer who has a limited license may attend the basic full-time peace officer training course at the state law enforcement training academy center. The peace officer's employing agency shall submit a verified statement to the board that the peace officer is a full-time peace officer of the agency in connection with the peace officer's application to attend the state law enforcement training academy center for the basic full-time peace officer training course and that the peace officer is receiving a salary while attending the state law enforcement training academy center.

3. Only an individual hired to be a full-time peace officer may apply for a limited license or a peace officer license, apply for renewal of a license, except for renewal of an inactive license, or apply for reinstatement of a license. The peace officer's employing agency shall submit a verified statement to the board that the peace officer is a full-time peace officer of the agency in connection with the peace officer's application for a limited license or an application for renewal or reinstatement of a license.

History: Effective October 1, 2004; amended effective July 1, 2006; April 1, 2014.
General Authority: NDCC 12-63-02.1(7), 12-63-04(2)(d) Law Implemented: NDCC 12-63-02.1, 12-63-04(1), 12-63-06, 12-63-07, 12-63-09

109-02-01-04.1 Other reserve peace officer license requirements.

1. In addition to other requirements of law when an agency employs or appoints an individual to be a reserve peace officer, the agency shall notify the board of the employment or appointment of the individual on a form provided by the board and verify that the individual meets the requirements of North Dakota Century Code chapter 12-63 and these rules before the individual may begin performing reserve peace officer duties. The agency shall submit on a form provided by the board verification of completion of the criminal history background investigation, medical examination, and psychological examination. The agency shall also forward to the board the record of the individual's completion of the reserve peace officer basic course.

2. An individual may only work for one criminal justice agency at a time in a reserve peace officer capacity.

3. A reserve peace officer may not be on duty more than 40 hours in any 30 day period unless a state of emergency exists.

History: Effective

109-02-01-05. Agency's responsibility.

1. Every agency shall provide or obtain the necessary training for its ~~peace~~ officers in order that ~~its~~ those ~~peace~~ officers meet all board license requirements.

2. Every agency shall maintain records of training provided to ~~its~~ their ~~peace~~ officers and make the records available to the board upon request.

3. Every agency shall notify the board when it hires an ~~peace~~ officer, when it terminates the employment or appointment of an ~~peace~~ officer, or when an ~~peace~~ officer resigns from employment or appointment with the agency. The agency shall submit the notification on the form provided by the board within thirty days from the date of the officer's employment, termination, or resignation.

4. It is the responsibility of each agency to investigate and submit a written report to the board of any of the following:

- a. A violation of North Dakota Century Code chapter 12-63 by an ~~peace~~ officer employed or appointed by the agency;
- b. An arrest, plea of guilty, or finding of guilt for a felony offense by an ~~peace~~ officer employed or appointed by the agency;
- c. An arrest, plea of guilty, or finding of guilt by an officer employed by the agency for an offense involving moral turpitude, an offense involving domestic violence or violation of a domestic violence restraining order, an offense involving child abuse or neglect, an offense involving firearms under North Dakota Century Code title 12.1 or 62.1; or
- d. Any other ~~criminal offense~~ violation of law or rule of the board ~~may determine has a direct bearing on the applicant's ability to serve as an~~ peace officer.

History: Effective October 1, 2004; amended effective April 1, 2014. General Authority: NDCC 12-63-04(2)(d) Law Implemented: NDCC 12-63-04, 12-63-12

109-02-01-06. Record of certified instructors and shooting courses. Repealed effective April 1, 2014.

109-02-01-07. Waiver.

The board may waive the requirements of this article upon a showing of good cause. Good cause means a situation involving extreme hardship that places an undue burden on an ~~peace~~ officer or agency. History: Effective October 1, 2004; amended effective April 1, 2014. General Authority: NDCC 12-63-04(2)(d) Law Implemented: NDCC 12-63-04

109-02-01-08. Additional agency requirements.

This article establishes minimum standards and requirements for ~~peace~~ officers and does not preclude an agency from establishing additional or more stringent hiring and training requirements and ethical standards.

History: Effective October 1, 2004. General Authority: NDCC 12-63-04(2)(d) Law Implemented: NDCC 12-63-04

109-02-01-09. Hearings and appeals.

Hearings and appeals must be in accordance with North Dakota Century Code chapters 28-32 and 54-57. An aggrieved individual may waive these requirements and consent to disposition by the board.

History: Effective October 1, 2004; amended effective April 1, 2014. General Authority: NDCC 12-63-04(2)(d) Law Implemented: NDCC 12-63-04, 12-63-12 6

CHAPTER 109-02-02 LICENSING AND TRAINING REQUIREMENTS

Section

- 109-02-02-01 Compliance ~~With~~ with Minimum Training Standards
- 109-02-02-02 Supervision of a Part-Time Licensed Peace Officers and Reserve Licensed Peace Officers
- 109-02-02-03 Reserve Officers [~~Repealed~~]
- 109-02-02-04 Limited Peace Officer License
- 109-02-02-04.1 Reserve Peace Officer License
- 109-02-02-05 Waiver of Required Training - ~~Out of State and Federal Peace Officers Reciprocity~~
- 109-02-02-06 Licensing Examinations
- 109-02-02-06.1 Reserve Peace Officer Licensing Examinations
- 109-02-02-07 Employment of ~~Peace~~ Officers
- 109-02-02-08 Medical and Psychological Examination
- 109-02-02-09 Compliance ~~W~~with Sidearm Qualification as a License Requirement
- 109-02-02-10 License Certificate [~~Repealed~~]
- 109-02-02-10.1 Scope of Part-Time Peace Officer Authority
- 109-02-02-11 Licensing, Renewal, and Reinstatement Fees
- 109-02-02-12 Surrender of License
- 109-02-02-13 Reinstatement of License
- 109-02-02-14 Inactive Status
- 109-02-02-15 Continuing Education Requirements
- 109-02-02-16 License Renewal
- 109-02-02-17 Termination of ~~Peace~~ Officer Employment or Appointment
- 109-02-02-18 Notice of Termination
- 109-02-02-19 Notice of Denial, Suspension, or Revocation – Hearing

109-02-02-01. Compliance with minimum training standards.

1. Each applicant for a peace officer's license shall successfully complete the first available board-certified basic full-time peace officer training course from the date of the issuance of the peace officer's limited license, except as extended by the board under these rules and successfully pass the licensing examination. The applicant must successfully pass the licensing examination before the board may issue a full-time peace officer's license.
2. Each applicant for a part-time peace officer's license shall successfully complete the basic part-time peace officer training course within two years after the applicant commenced taking the classes in the basic part-time peace officer training course.
3. An individual who has never been employed or appointed by an agency for up to two years after successfully completing the basic full-time peace officer training course and licensing examination is eligible for a peace officer license and may be issued a license upon employment or appointment as a peace officer with an agency.
4. An individual who has never been employed or appointed by an agency for two years or more, but less than three years, after successfully completing the full-time basic peace officer training course and licensing examination shall obtain a limited license, attend the criminal and traffic portions of the basic full-time peace officer training course, successfully pass the licensing examination, and be employed by an agency in order to receive a peace officer license.
5. An individual who has never been employed or appointed by an agency as a peace officer for more than three years after successfully completing the basic full-time peace officer training course and licensing examination shall obtain a limited license, complete the entire basic full-time peace officer training course, successfully pass the licensing examination, and be employed by an agency in order to receive a peace officer license.

6. The board may grant an extension of time to a peace officer to complete required courses upon written request by the agency administrator upon a showing of good cause.

History: Effective October 1, 2004; amended effective July 1, 2006; April 1, 2014.
General Authority: NDCC 12-63-02.1(7), 12-63-04(2)(d) Law Implemented: NDCC 12-63-02.1, 12-63-03(1)(2), 12-63-06, 12-63-07

109-02-02-02. Supervision of a part-time licensed peace officers and reserve licensed peace officers.

Supervision of a ~~peace officers~~ with a part-time license and reserve peace officers means the supervising officer has the ability to have direct personal contact with the part-time peace officer or reserve peace officer within a reasonable time and the part-time peace officer or reserve peace officer is able to have direct personal contact with the supervising full-time peace officer within a reasonable time.

History: Effective October 1, 2004; amended effective April 1, 2014. General Authority: NDCC 12-63-02.1(3)(7), 12-63-04(2)(d) Law Implemented: NDCC 12-63-02.1, 12-63-04

109-02-02-03. Reserve officers.

Repealed effective April 1, 2014.

109-02-02-04. Limited peace officer license.

1. The board may issue a limited peace officer license to an individual who is in good standing and has completed the educational, medical, and psychological examination licensing requirements and has been qualified to carry a sidearm.

2. The application for the limited license must be made by the individual's employing agency. A peace officer with a limited license must work under the supervision of an officer with a full-time peace officer license.

Supervision of a peace officer with a limited license means the supervising officer has the ability to have direct personal contact with the peace officer with a limited license within a reasonable time and the peace officer with a limited license is able to have direct personal contact with the supervising full-time peace officer within a reasonable time.

3. A limited license is effective until the individual has successfully completed the first available basic full-time peace officer training course and has successfully completed the licensing examination.

4. The board may authorize an individual to attend a subsequent basic full-time peace officer training course upon a showing of good cause by the agency or individual. The board may renew the limited license once if the individual failed the licensing examination. An individual with a limited license may retake the licensing examination within thirty days after the first examination and upon payment of the examination fee. If an individual with a limited license fails the licensing examination a second time, the individual shall successfully complete a basic full-time peace officer training course before the individual may retake the licensing examination. The individual shall obtain a limited license if the individual will attend the basic full-time peace officer training course at the state law enforcement training academy center.

5. If a peace officer with a limited license is no longer employed with the agency that applied for the limited license, or if the peace officer fails to attend and successfully complete the first available basic full-time peace officer training course without the prior approval of the board, the peace officer's limited license expires.

6. An applicant for a part-time peace officer license may not receive a limited peace officer license.

7. An individual who has not been issued a limited license may not perform peace officer duties under this section. N.D.C.C. §12-63-02 requires an individual to be licensed prior to performing peace officer duties. N.D.C.C. §12.1-13-04 makes impersonating a law enforcement officer a class A misdemeanor.

History: Effective October 1, 2004; amended effective July 1, 2006; April 1, 2014.
General Authority: NDCC 12-63-02.1(7), 12-63-04(2)(d) Law Implemented: NDCC
12-63-02.1, 12-63-06, 12-63-07, 12-63-09

DRAFT

109-02-02-04.1 Reserve peace officer license.

1.The board may issue a reserve peace officer license to an individual who is in good standing, has completed the educational, medical, and psychological examination licensing requirements and has qualified to carry a sidearm. The educational requirement is the reserve peace officer training course set by the board. The application for the reserve peace officer license must be made by the individual's employing or appointing agency.

109-02-02-05. Waiver of required training - ~~Out of state and federal peace officers~~ Reciprocity.

1. An individual having peace officer experience or having completed an equivalent basic full-time peace officer training course conducted in ~~another~~ any state or by a federal law enforcement agency may qualify for a partial waiver of basic full-time peace officer training requirements. The administrator of the agency employing the individual may apply to the board for a partial waiver. The board shall review all applications for a waiver and may grant a partial waiver.

a. Training received in a state or from a federal law enforcement agency with laws governing or regulating peace officer training must have been approved or certified by the governing or regulating body of the state or federal agency in which the individual received the training.

b. The board may prescribe additional training as a license requirement for an individual applying for a partial waiver under this rule.

c. Applicants for a partial waiver of basic full-time peace officer training shall submit complete documentation of prior basic full-time peace officer training, including current licensing or certification, to the board.

d. Applicants must prove they are in good standing with all law enforcement licensing authorities where they have been licensed in order to obtain a waiver.

2. If the board has granted an applicant a partial waiver, the board may only allow the applicant two attempts to successfully complete the licensing examination. If a passing score is not obtained on the first attempt, the applicant may retake the examination, but only if the applicant retakes the examination within thirty days from the date of the first examination.

If a passing score is not obtained on the second attempt, the applicant shall complete the entire basic full-time peace officer training course before retaking the licensing examination.

3. An individual without peace officer experience who has completed an equivalent basic full-time peace officer training course in ~~another~~ any state or with a federal law enforcement agency may only qualify for a partial waiver of the basic full-time peace officer training course if it has been less than three years since the individual completed the other state's or federal agency's peace officer training course.

4. An individual with peace officer experience who has been employed as a certified or licensed peace officer in ~~another~~ any state or with a federal law enforcement agency may only qualify for a partial waiver of the basic full-time peace officer training course if it has been less than three years since the individual has been employed as a peace officer in another state or with a federal law enforcement agency.

5. Those peace officers currently licensed in North Dakota and working for an agency who wish to obtain a reserve peace officer license can be issued a reserve peace officer license upon completion of the reserve peace officer application and payment of the reserve peace officer licensing fee

History: Effective October 1, 2004; amended effective April 1, 2014. General Authority: NDCC 12-63-04(2) Law Implemented: NDCC 12-63-04, 12-63-06

109-02-02-06. Licensing examinations.

1. Examination requirements. An individual is eligible to take the licensing examination upon completion of or during the basic full-time peace officer

training course. A minimum score of seventy percent is necessary for successful completion of the licensing examination. The individual shall pay the examination fee established by the board prior to taking the examination.

2. Retaking examinations. An individual who fails the first examination may retake the examination one time upon furnishing to the board the required examination fee. After the second unsuccessful attempt, the individual shall successfully complete the entire basic full-time peace officer training course before the individual may retake the examination a third time. The individual shall obtain a limited license if the individual will attend the basic full-time peace officer training course at the law enforcement training academy.

History: Effective October 1, 2004; amended effective April 1, 2014. General Authority: NDCC 12-63-04(2)(d) Law Implemented: NDCC 12-63-04, 12-63-07

109-02-02-06.1 Reserve peace officer licensing examinations.

1. Examination requirements. An individual is eligible to take the licensing examination within thirty days of completing the reserve peace officer training course. A minimum score of seventy percent is necessary for successful completion of the licensing examination. There is no fee for the reserve peace officer examination.

2. Retaking examinations. An individual who fails the first examination may retake the examination one time within thirty days. After a second unsuccessful attempt, the individual shall successfully complete the entire reserve peace officer training course before the individual may retake the examination a third time.

3. Existing reserve officers or reserve deputies. Individuals who have served as a reserve officer or reserve deputy for more than one year preceding August 1, 2021 and who meet the minimum license requirements of this chapter may obtain a reserve peace officer license without taking the entire reserve peace officer training program. Those qualified individuals may obtain a reserve peace officer license by taking a use of force class, passing the use of force examination, taking the reserve peace officer North Dakota criminal and traffic law course,

qualifying with their duty weapon and successfully passing the reserve peace officer examination. Individuals availing themselves of this process may only take the reserve peace officer examination once. If the individual does not pass the reserve peace officer examination, they must take the entire reserve peace officer training program in order to re-take the reserve peace officer examination.

109-02-02-07. Employment of ~~peace~~ officers.

1. ~~Application procedures for a full-time peace officer license.~~ If an individual is not already a licensed ~~peace~~ officer when hired by an agency, but the individual is eligible to be licensed, the individual shall apply to be licensed at the time of appointment or hire. The application must be made on a form provided by the board, and both the applicant and the agency administrator shall verify the applicant is eligible to be licensed. The applicable license fee must accompany the application.

2. ~~Application procedures for a part-time peace officer license.~~ If an agency has hired or appointed an individual to be a part-time ~~peace~~ officer, and the individual does not have a part-time ~~peace~~ officer license, but has completed all requirements for a part-time ~~peace~~ officer license, the individual shall apply for a part-time ~~peace~~ officer license at the time of appointment or hire. The application must be made on a form provided by the board. The applicant and the agency administrator shall verify the applicant is eligible for a part-time ~~peace~~ officer license. The applicable license fee must be submitted with the application.

History: Effective October 1, 2004; amended effective July 1, 2006; April 1, 2014.
General Authority: NDCC 12-63-02.1(7), 12-63-04(2)(d) Law Implemented: NDCC 12-63-02.1, 12-63-04, 12-63-06, 12-63-07, 12-63-09

109-02-02-08. Medical and psychological examination.

An applicant for a ~~peace~~ officer license shall successfully complete a board-approved psychological examination by a board-approved provider. An applicant shall also successfully complete a medical examination. The employing agency shall submit the results of the psychological examination and documentation of

the medical examination with the application for the ~~peace officer~~ license or limited license.

History: Effective October 1, 2004; amended effective April 1, 2014. General Authority: NDCC 12-63-04(2)(d) Law Implemented: NDCC 12-63-06(4)

109-02-02-09. Compliance with sidearm qualification as a license requirement.

The board may not issue, renew, or reinstate an peace officer's license or limited license unless the ~~peace~~ officer has complied with all sidearm qualification requirements. The board may suspend an officer's license if the officer fails to comply with all sidearm qualification requirements under these rules.

History: Effective October 1, 2004; amended effective April 1, 2014. General Authority: NDCC 12-63-04(2)(d) Law Implemented: NDCC 12-63-04(1)(d)

109-02-02-10. License certificate.

Repealed effective April 1, 2014.

109-02-02-10.1. Scope of part-time peace officer authority.

A peace officer with a part-time peace officer license may only perform peace officer duties within the scope of the peace officer's board-approved training.

History: Effective July 1, 2006. General Authority: NDCC 12-63-02.1(7) Law Implemented: NDCC 12-63-02.1

109-02-02-11. Licensing, renewal, and reinstatement fees.

1. The following fees are nonrefundable:

- a. Non-reserve peace officer licensing examination fee - twenty-five dollars.
- b. Initial license fee - the initial license fee is forty-five dollars.
- c. License renewal fee - forty-five dollars for a three-year period.

- d. Late license renewal fee for up to thirty days after expiration of license - one hundred dollars.
- e. Late license renewal fee from thirty-one days to three hundred sixty-five days after expiration of license - two hundred fifty dollars.
- f. License reinstatement fee after revocation of license - five hundred dollars.
- g. Duplicate license fee - ten dollars.
- h. Late sidearm qualification fee - one hundred dollars.
- i. Reinstatement fee for sidearm suspension or revocation - two hundred fifty dollars.
- j. Late instructor renewal fee – one hundred dollars.

2. License renewals are every three years on a calendar-year basis. License renewal dates are based on the following surname divisions: A-G, H-M, N-Z.

History: Effective October 1, 2004; amended effective April 1, 2014. General Authority: NDCC 12-63-04(2)(d), 12-63-05 Law Implemented: NDCC 12-63-05, 12-63-10

109-02-02-12. Surrender of license.

Licenses remain the property of the board. An peace officer shall surrender the officer's license if the board has suspended or revoked the peace officer's license or if the peace officer has not requested inactive status and has allowed the peace officer license to expire.

History: Effective October 1, 2004; amended effective April 1, 2014. General Authority: NDCC 12-63-04(2)(d) Law Implemented: NDCC 12-63-02, 12-63-04, 12-63-11(2)

109-02-02-13. Reinstatement of license.

~~An peace officer individual that~~ who does not perform duties as an ~~peace officer~~, is no longer employed or appointed by an agency, or otherwise allows the ~~peace officer's~~ license to expire shall comply with the following conditions for reinstatement:

1. If the board has revoked an individual's ~~peace officer~~ license by adverse license action under North Dakota Century Code section 12-63-12, the individual may not apply for reinstatement of the license until one year from the date of revocation of the license.

2. Before the board may accept the application for reinstatement, the individual shall comply with the following conditions for reinstatement:

- a. The individual shall pay the reinstatement fee and shall meet the same continuing education requirements applicable for renewal of a ~~peace officer~~ license under this chapter.
- b. The individual shall successfully complete the written examination and sidearm qualification requirements under chapter 109-02-03 of these rules prior to reinstatement.
- c. If the individual does not apply for reinstatement within one year after becoming eligible to apply for reinstatement, the board may not accept the application for reinstatement.

History: Effective October 1, 2004; amended effective April 1, 2014. General Authority: NDCC 12-63-04(2)(d) Law Implemented: NDCC 12-63-04, 12-63-12

109-02-02-14. Inactive status.

~~A licensed peace officer~~ An individual who does not perform duties as a licensed peace officer or is no longer employed by an agency may request the board place the individual on inactive status. The individual shall make the request for inactive status in writing on a form provided by the board. The individual may remain on inactive status indefinitely if the individual meets the same requirements for a peace officer on active status, including annual sidearm qualification

requirements, and maintains continuing education requirements and renews the license in accordance with the rules of the board.

An individual who has been hired by an agency but who has been on inactive status for three or more years when the individual was hired by the agency shall attend the first available criminal and traffic law portions of the full-time peace officer basic course, and successfully complete the licensing examination before the board may restore the individual's license to active status. Reserve peace officers may not maintain a license in inactive status.

History: Effective October 1, 2004; amended effective April 1, 2014. General Authority: NDCC 12-63-04(2)(d) Law Implemented: NDCC 12-63-11(2)

109-02-02-15. Continuing education requirements.

1. In order for an ~~peace~~ officer to remain licensed, the ~~peace~~ officer shall comply with all license requirements. ~~Peace Officers~~ ~~officers~~ and shall receive a minimum of sixty hours of certified training every three years. Certified training in online, web-based, or video format cannot constitute more than twenty hours of the sixty-hour requirement for continuing education requirements. Training may not be in increments of less than one hour. If an officer has received more than sixty hours in a three-year period, the surplus in training hours may not be carried forward into the next three-year period.

2. Every ~~peace~~ officer shall meet the ~~sixty-hour~~ continuing education requirements within the officer's ~~three-year~~ license period, ~~or the peace officer's license expires at the expiration of the officer's three-year license period.~~ If an officer fails to complete the required continuing education within the time period specified in this section, or the officer or the officer's agency fails to submit a record of the officer's approved continuing education to the board within the time period specified in this section, the officer's license expires.

3. A peace officer who has enrolled and completed college courses may request a waiver of the sixty-hour training requirement for renewal of the peace officer's license. The board may grant the request upon a showing of successful completion of at least four semester credit hours of college credit in a criminal

justice-related or job-related topic. The peace officer shall submit documentation of successful course completion within thirty days after completion of the college course.

~~4. If an peace officer fails to complete the required sixty-hour continuing education within the time period specified in this section, or the peace officer or the peace officer's agency fails to submit a record of the peace officer's approved continuing education to the board within the time period specified in this section, the peace officer's license expires.~~

~~5.~~ A training course or seminar must be certified training to qualify for the continuing education training requirement for license renewal under this chapter.

a. If an out-of-state training course or seminar has not been approved by the board, the peace officer or the peace officer's employing agency shall notify the board within fifteen days prior to the start of the training course or seminar. ~~of the proposed training course or seminar prior to commencement of the training course or seminar.~~ The peace officer, or the peace officer's employing agency, shall provide the board the course name and subject matter, the training location, the dates and times of training, and if available, a training syllabus or agenda.

b. Within thirty days after completion of any training, the officer or the officer's employing agency shall submit verification of the officer's attendance at the training or seminar. ~~If the training or seminar agenda was not previously submitted, the training or seminar agenda must be submitted within thirty days following completion of the training or seminar.~~

c. The board may waive the required number of training hours upon a showing of good cause. For purposes of this section, good cause means a situation in which the officer is unable to complete the required training because of factors beyond the control of either the officer or the officer's employing agency. Under this section, good cause includes a situation in which the officer has suffered a physical injury or ailment that prevents the officer from successfully completing required training or when the officer is called to active military service and is

unable to successfully complete the required training. This waiver request must come from the officer's employing or appointing agency.

65- Reserve peace officers shall receive a minimum of thirty hours of certified training every three years. Ten hours of the certified training may consist of on-line training. If a reserve peace officer received more than thirty hours in a three-year period, the surplus in training hours ~~may~~ may not be carried forward into the next three-year period.

History: Effective October 1, 2004; amended effective April 1, 2014. General Authority: NDCC 12-63-04(2)(d) Law Implemented: NDCC 12-63-04

109-02-02-16. License renewal.

1. **Application.** An application for renewal of a ~~peace officer~~ license must be made on forms issued by the board. An ~~peace officer~~ applying for renewal shall verify compliance with sidearm and continuing education requirements on the application for renewal and submit the application for renewal prior to the expiration of the ~~peace officer's~~ license.

2. **Renewal.** The board shall issue a license renewal, which is valid for three years, to each ~~peace officer~~ who has submitted the appropriate fee on or before December thirty-first of the year the ~~peace officer's~~ license expires and who has verified compliance with all licensing requirements, including continuing education and annual sidearm qualification requirements.

3. **Late renewal.** If an ~~peace officer~~ fails to renew a license by December thirty-first of the year the ~~peace officer's~~ license expires, the ~~peace officer's~~ license is no longer in effect and the ~~peace officer individual~~ may not perform ~~peace-officer duties~~ or reserve peace officer duties until the ~~peace officer~~ has renewed the license in accordance with the requirements of this section. The ~~peace officer~~ may apply for late renewal no later than December thirty-first of the following year upon payment of the late renewal fee and verification of compliance with all licensing requirements, including continuing education and sidearm qualification requirements. The board may not renew the officer's license unless the officer

has completed all required continuing education and annual sidearm qualification requirements.

4. Expiration of license. If an peace officer fails to apply for renewal of a license within one year after the expiration of the officer's license, the board may not renew the officer's license.

5. Application for limited license and partial waiver. If an a individual peace officer fails to renew the license within one year after expiration of the license, the individual's employing agency may apply to the board for a limited license. The individual's employing agency may request a partial waiver of basic training after the board has issued a limited license to the individual.

6. No partial waiver. ~~If an individual has not been employed or appointed by an agency as a peace officer within three years after the individual's peace officer license has expired, the individual shall complete the enter entire basic full-time peace officer training course, successfully pass the licensing examination, and must be employed by an agency. The individual shall obtain a limited license if the individual will attend the basic full-time peace officer training course at the state law enforcement training academy. There are no waivers available for individuals whose peace officer license has been expired for more than three years.~~

History: Effective October 1, 2004; amended effective April 1, 2014. General Authority: NDCC 12-63-04(2)(d) Law Implemented: NDCC 12-63-04, 12-63-11

109-02-02-17. Termination of peace officer employment or appointment.

An agency's termination of an peace officer's employment or appointment, whether the termination is voluntary or involuntary, may not preclude adverse license action against the individual by the board under North Dakota Century Code section 12-63-12.

History: Effective October 1, 2004; amended effective April 1, 2014. General Authority: NDCC 12-63-04(2)(d) Law Implemented: NDCC 12-63-12, 12-63-13

109-02-02-18. Notice of termination.

If an agency terminates an peace officer's employment or appointment, the agency shall notify the board within thirty days of the termination on a form provided by the board. The notice of termination must include:

1. The nature and cause of the termination.
2. The effective date of the termination.
3. A statement from the agency indicating whether ~~or not~~ the agency is recommending denial, suspension, or revocation of the peace officer's license.

History: Effective October 1, 2004; amended effective April 1, 2014. General Authority: NDCC 12-63-04(2)(d) Law Implemented: NDCC 12-63-01(2), 12-63-12, 12-63-13

109-02-02-19. Notice of denial, suspension, or revocation - Hearing.

The board shall notify an peace officer in writing when the board has made a determination to deny, refuse to renew or reinstate, suspend, revoke, or impose probationary conditions on a peace officer's license. The notice must specify the basis of the denial, refusal to renew or reinstate, suspension, revocation, or probationary conditions. The peace officer may request an administrative hearing on the denial, refusal to renew or reinstate suspension, revocation, or probationary conditions. The board may take adverse license action by service of an administrative complaint on the peace officer. The board shall notify an peace officer's employing or appointing agency if the board has commenced adverse license action against an peace officer currently employed or appointed by the agency.

History: Effective October 1, 2004; amended effective April 1, 2014. General Authority: NDCC 12-63-04(2)(d) Law Implemented: NDCC 12-63-12, 12-63-13

CHAPTER 109-02-03 MINIMUM STANDARDS OF TRAINING PRIOR TO CARRYING A WEAPON

Section

109-02-03-01 Sidearm Authorization and Qualification

- 109-02-03-02 Use of Force Examination and Sidearm Qualification ~~Weapons Safety and Proficiency Examination~~
- 109-02-03-03 Shotgun, Rifle, and Special Weapons Certification [Repealed]
- 109-02-03-04 Sidearm Qualification Required Annually
- 109-02-03-05 Certified Shooting Course
- 109-02-03-06 Criteria for a Certified Shooting Course
- 109-02-03-07 Issuance, Denial, or Revocation of Sidearm Qualification
- 109-02-03-08 Waiver [Repealed]
- 109-02-03-09 Notice of Denial or Revocation of Qualification - Hearing [Repealed]

109-02-03-01. Sidearm authorization and qualification.

An peace officer may not carry a sidearm in the course of employment or in the performance of official duties unless the officer has successfully completed the sidearm qualification requirements and the board has issued an peace officer license or limited license. Sidearm qualification requires passing completion of a weapons safety and proficiency test—North Dakota POST approved sidearm qualification course. ~~approved by the board.~~

History: Effective October 1, 2004. General Authority: NDCC 12-63-04(2)(d) Law Implemented: NDCC 12-63-04(1)(d)

109-02-03-02. Use of force examination and sidearm qualification ~~weapons safety and proficiency examination.~~ for individuals not licensed in North Dakota.

The board shall establish and certify a ~~weapons safety and proficiency~~ sidearm qualification and use of force examination, including:

1. A written examination covering criminal and civil liability and North Dakota law on the use of force. A score of one hundred percent is necessary for successful completion of the written examination.
2. A North Dakota certified sidearm shooting course using the peace officer's duty weapon, duty equipment, and duty ammunition or ammunition ~~ballistically~~ of equivalent grain ~~similar~~ to the ammunition the peace officer carries on duty. Successful completion of the ~~weapons safety and proficiency portion of the~~

sidearm qualification ~~examination~~ requires a minimum score of seventy percent, ~~and~~ the demonstration of competence in sidearm skills, including the safe handling, loading, and unloading of the sidearm, as determined by a certified weapons instructor.

~~3. A peace officer may not take the written examination or sidearm qualification test more than three times in any twelve-month period. After the third unsuccessful attempt, the peace officer must wait one year before retaking the examination or sidearm qualification test.~~

An individual may attempt to qualify three times. Only one attempt may occur in any twelve-hour period. If those three attempts are unsuccessful, the individual must wait thirty days from the last unsuccessful attempt before retaking. After that period, the individual may attempt a single additional qualification. If the individual is unable to qualify, they may not attempt qualification for 365 days from the last unsuccessful attempt.

4. Only a North Dakota certified weapons instructor may administer the sidearm qualification weapons safety and proficiency, North Dakota law, and use of force examination ~~or sidearm qualification.~~

History: Effective October 1, 2004; amended effective July 1, 2006; April 1, 2014.
General Authority: NDCC 12-63-04(2)(d) Law Implemented: NDCC 12-63-04

109-02-03-03. Shotgun, rifle, and special weapons certification.

Repealed effective April 1, 2014.

109-02-03-04. Sidearm qualification required annually.

Every ~~peace~~ officer shall qualify with the ~~peace~~ officer's duty weapon each year as a license requirement.

1. Sidearm qualification requires successful completion of a North Dakota certified shooting course at least once during each calendar year. If an peace officer fails to qualify after three attempts at any certification course on three separate days by the end of the calendar year, the ~~peace~~ officer may not carry a

duty weapon for thirty days during which time the officer no longer meets minimum license requirements. After thirty days, the officer may again attempt to qualify, however the officer's license remains suspended until the employing or appointing agency provides proof the officer successfully ~~completes~~ completed the sidearm qualification and pays the late sidearm qualification fee if required under these rules.

2. For ~~peace~~ officers employed by an agency who are not required to carry a sidearm in the performance of their duties, the ~~peace~~ officer's agency may apply to the board for a waiver of the sidearm qualification requirements.

~~3. Peace o~~Officers who have not successfully completed the annual sidearm qualification requirements for two consecutive years shall successfully complete both the written examination and a certified shooting course as a condition of licensing, license renewal, or license reinstatement. The ~~peace~~ officer shall also pay the sidearm qualification reinstatement fee required under these rules.

History: Effective October 1, 2004; amended effective April 1, 2014. General Authority: NDCC 12-63-04(2)(d) Law Implemented: NDCC 12-63-04

109-02-03-05. Certified shooting course.

An ~~peace~~ officer may not qualify with the officer's duty weapon on a noncertified shooting course.

History: Effective October 1, 2004; amended effective April 1, 2014. General Authority: NDCC 12-63-04(2)(d) Law Implemented: NDCC 12-63-04

109-02-03-06. Criteria for a certified shooting course.

A sidearm shooting course must meet the following requirements before the agency may receive certification for the course and before an ~~peace~~ officer may qualify or requalify with the ~~peace~~ officer's duty weapon:

1. The course must provide for a minimum of three firing positions, including:
 - a. Prone.

- b. Sitting.
 - c. Standing.
 - d. Kneeling.
 - e. Point shoulder.
 - f. Crouch.
 - g. Walking.
 - h. Barricade position.
2. The course must induce stress by the use of time, physical activity, or night or low light conditions or a combination of all three. The course must provide a time limit for course completion.
 3. The course must include firing from at least three different distances:
 - a. The distance may not be less than one yard [.91 meter] nor more than twenty-five yards [22.86 meters].
 - b. The majority of firing must occur at seven yards [6.40 meters] or more.
 4. The course must include firing at least eighteen but not more than sixty rounds of ammunition from start to finish.
 5. The course must be fired completely with the ~~peace~~ officer's duty weapon and duty equipment and include left-hand and right-hand shooting. An approved substitute weapon of the same type, model, and manufacture as the duty weapon may be used if the duty weapon becomes defective during firing.
 6. The ammunition used when firing for qualification must be the same as or ~~ballistically similar~~ equivalent grain to the ammunition normally carried on duty.
 7. Only silhouette targets may be used on a certified shooting course.

History: Effective October 1, 2004; amended effective July 1, 2006. General Authority: NDCC 12-63-04(2)(d) Law Implemented: NDCC 12-63-04(1)(d)

109-02-03-07. Issuance, denial, or revocation of sidearm qualification.

1. The board shall review all applications for sidearm qualification. The board may deny or revoke an application for sidearm qualification:

- a. If the applicant failed to successfully complete the ~~written examination~~ ~~or the~~ shooting course;
- b. Upon a finding that the applicant falsified any information required to obtain qualification or re qualification;
- c. Upon the written recommendation of a certified instructor; or
- d. If the shooting course was not board-certified.

2. The board may require any ~~peace~~ officer to repeat a sidearm qualification test based upon the written recommendation of the agency administrator or certified weapons instructor or when the board deems it necessary.

3. Documentation for sidearm qualification must be submitted to the board on forms provided by the board and must include:

- a. Identification of the ~~peace~~ officer.
- b. Identification of the weapons instructor.
- c. Identification of the duty weapon, including model and manufacturer.
- d. Date of the ~~peace~~ officer's sidearm qualification.
- e. Identification of the certified shooting course.

History: Effective October 1, 2004; amended effective April 1, 2014. General Authority: NDCC 12-63-04(2)(d) Law Implemented: NDCC 12-63-04(1)(d)

109-02-03-08. Waiver.

Repealed effective April 1, 2014.

109-02-03-09. Notice of denial or revocation of qualification - Hearing.

Repealed effective April 1, 2014.

DRAFT

CHAPTER 109-02-04 INSTRUCTOR AND TRAINING COURSE CERTIFICATION

Section

109-02-04-01 Certification of Instructors

109-02-04-02 Requirements for Certification of Law Enforcement Instructors

109-02-04-03 Certification Duration

109-02-04-04 Application for Instructor Certification

109-02-04-05 Requirements for Weapons Instructor Certification

109-02-04-06 Weapons Instructors Requirements

109-02-04-07 Certification of Training Providers

109-02-04-07.1 Certified Training Provider and Certified Instructor Denial, Suspension, Revocation, or Imposition of Probationary Terms.

109-02-04-08 Basic Full-Time Peace Officer Training Course Requirements

109-02-04-08.1 Basic Part-Time Law Enforcement Training Course

109-02-04-08.2 Basic Reserve Law Enforcement Training Course

109-02-04-09 Application for Course Certification

109-02-04-10 Notice of Suspension, Revocation, Denial, or Denial of Renewal - Hearing [Repealed]

109-02-04-01. Certification of instructors.

The board shall certify law enforcement instructors who the board has determined are qualified, based on the instructor's education, training, and experience, to teach one or more law enforcement subjects in accordance with the requirements of this chapter.

1. The board may deny, deny renewal of, or suspend an instructor's certification if it determines that the instructor fails to meet the requirements of this chapter to teach one or more law enforcement subjects.

2. The board may deny, deny renewal of, suspend, or revoke an instructor's certification if the board finds that false information was willfully submitted to the board for purposes of obtaining instructor certification or renewal of certification.

3. The board shall maintain a record of certified instructors, certified training courses, and certified shooting courses.

History: Effective October 1, 2004; amended effective April 1, 2014. General

Authority: NDCC 12-63-04(2)(d) Law Implemented: NDCC 12-63-04(1)(a)(b)(c)

109-02-04-02. Requirements for certification of law enforcement instructors.

1. A North Dakota licensed peace officer applying for certification as a law enforcement instructor to teach ~~peace officer~~ general police subjects, including patrol, investigation, or the use of weapons, must have:

- a. Two years' experience as a licensed or certified peace officer;
- b. Verified training or documented experience in each subject to be taught;
- c. Compliance with all board requirements, including successful completion of a course of instructor development training or its equivalent approved by the board; and
- d. A recommendation by the applicant's agency administrator or training officer.

2. The board may waive any part of the requirements of this section if it finds that a person who does not satisfy all requirements of this section is otherwise qualified to be an instructor.

History: Effective October 1, 2004; amended effective April 1, 2014. General Authority: NDCC 12-63-04(2)(d) Law Implemented: NDCC 12-63-04(1)(a)(b)(c)

109-02-04-03. Certification duration.

A law enforcement instructor's certification is effective for no more than the instructor's peace officer license period. The law enforcement instructor's initial certification period will expire the same date as the instructor's officer license. Subsequent instructor certification periods will run concurrently with the instructor's three-year license period. At the end of the instructor's peace officer license period, the board may renew the instructor's certification provided that:

1. The instructor has completed a certified instructor refresher course at least once during the certification period;

2. The instructor is recommended by the agency administrator or training officer; and
3. A law enforcement instructor who has not completed a certified instructor refresher course during the instructor's ~~peace~~ officer license period may not apply for renewal, ~~and instead must apply for new certification, including successful completion of a course of instructor development training certified by the board.~~ If the instructor completes the methods of instruction refresher long course and pays the late instructor renewal fee within six months of instructor certification expiration, the instructor certification is reinstated. Individuals not completing these requirements within six months of the expiration date must retake the entire methods of instruction training to obtain their instructor certification.
4. ~~The law enforcement instructor's initial certification period will expire the same date as the instructor's peace officer license. Subsequent instructor certification periods will run concurrent with the instructor's three year peace officer license period.~~

History: Effective October 1, 2004; amended effective April 1, 2014. General Authority: NDCC 12-63-04(2)(d) Law Implemented: NDCC 12-63-04(1)(a)(b)(c)

109-02-04-04. Application for instructor certification.

1. Applications for instructor certification must be made on a board-approved form.
2. The board shall review all applications for certification. The board may issue an instructor's certificate, issue an instructor's certificate subject to conditions, or deny issuance of the certificate.

History: Effective October 1, 2004; amended effective April 1, 2014. General Authority: NDCC 12-63-04(2)(d) Law Implemented: NDCC 12-63-04(1)(a)(b)(c)

109-02-04-05. Requirements for weapons instructor certification.

1. In order to be certified as a weapons instructor, an ~~an~~ ~~peace~~ officer shall successfully complete a ~~certified~~ North Dakota POST approved instructor development ~~course~~ and a ~~certified~~ weapons instructor development courses. In

order to waive any of these requirements the applicant must make a personal appearance before the POST Board.

2. If the ~~peace~~ officer is only going to conduct sidearm qualification testing on a certified shooting course, the ~~peace~~ officer only needs to successfully complete a certified North Dakota POST approved weapons instructor course.

3. Each instructor shall successfully complete a certified weapons instructor refresher course at least once during the instructor's certification period in order to be eligible for recertification.

4. The initial weapons instructor certification period will expire the same date as the instructor's ~~peace~~ officer license. Subsequent weapons instructor certification periods will run concurrent with the three-year license period.

History: Effective October 1, 2004; amended effective April 1, 2014. General Authority: NDCC 12-63-04(2)(d) Law Implemented: NDCC 12-63-04(1)(a)(b)(c)

109-02-04-06. Weapons instructors requirements.

1. Within thirty days after an ~~peace~~ officer or applicant has completed a certified shooting course, the weapons instructor shall forward a completed sidearm qualification form to the board.

2. The board may suspend a weapons instructor's certification if the weapons instructor fails to submit an ~~peace~~ officer's or applicant's sidearm qualification form to the board within thirty days after the ~~peace~~ officer has completed the sidearm qualification on a certified shooting course.

3. The board shall notify a weapons instructor in writing if it suspends the instructor's certification. The notice must specify the basis of the suspension.

History: Effective October 1, 2004; amended effective April 1, 2014. General Authority: NDCC 12-63-04(2)(d) Law Implemented: NDCC 12-63-04(1)(a)(b)(c)

109-02-04-07. Certification of training providers.

Training providers must be certified by the board prior to the commencement of training. Certification may not exceed four years.

1. The training provider shall file satisfactory proof of adequate training equipment, facilities, and qualified instructors with the board prior to certification. Adequate training equipment and facilities include sufficient supplies and safety assurances. The training provider's instructors must have experience, training, and education in law enforcement subjects or basic correctional officer training courses before the board may certify the instructor.
2. Upon review of the training provider's request for certification and after determination the training provider has met the requirements of the board, the board may grant provisional certification until the board completes additional evaluation and inspection.
3. The training provider's certification is subject to periodic review by the board.

History: Effective October 1, 2004; amended effective April 1, 2014. General Authority: NDCC 12-63-04(2)(d) Law Implemented: NDCC 12-44.1-01(1), 12-44.1-04(4), 12-63-04(1)(a)(b)(c)

109-02-04-07.1. Certified training provider and certified instructor denial, suspension, revocation, or imposition of probationary terms.

1. The board may deny, suspend, or revoke a training provider's or certified instructor's certification, or impose probationary conditions on the training provider or certified instructor, or suspend or revoke certification of a training course if the training provider or certified instructor:
 - a. Fails to provide instruction consistent with the prescribed performance objectives in the subject areas for which the training provider or training course was certified;
 - b. Fails to comply with or cooperate in a board investigation of the training provider or training course, including an investigation of misconduct by students, faculty, or staff. For purposes of this requirement, the term "misconduct" includes cheating on a licensing examination or tests required

by the training provider or the board, helping another individual to cheat on a licensing examination or tests required by the training provider or the board, filing a false report or information with the board, or obstructing a board investigation; or

c. ~~Failure~~ Fails to comply with North Dakota Century Code chapter 12-63 or the rules of the board.

2. Failure to comply with board requirements may result in one or more of the following:

a. A letter of censure to the certified training provider or certified instructor;

b. Formal or informal probation for the certified training provider or certified instructor; or

c. Denial, denial of renewal, suspension, or revocation of certification of the certified training provider, certified instructor or certified training course.

3. The board shall notify in writing any certified training provider or certified instructor when the board denies, denies renewal of, suspends, or revokes certification. The notice must specify the basis of the denial, denial of renewal, suspension, or revocation of the certification. The certified training provider or certified instructor may request a hearing in accordance with North Dakota Century Code chapter 28-32.

History: Effective April 1, 2014. General Authority: NDCC 12-63-04(2)(d) Law Implemented: NDCC 12-63-04(1)(a)(b)(c)

109-02-04-08. Basic full-time peace officer training course requirements.

1. The basic full-time peace officer training course must include training based on performance objectives essential for law enforcement in the state of North Dakota, and must include classroom training, field training, and firearms training.

2. The basic full-time peace officer training course must include testing on the performance objectives. The training provider conducting the basic full-time peace officer training course shall maintain records of tests and testing procedures.

3. Before a certified training provider offers any course from the basic full-time peace officer training courses at another site not included in the original certification, the training provider shall notify the board in writing.

History: Effective October 1, 2004; amended effective April 1, 2014. General Authority: NDCC 12-63-04(2)(d) Law Implemented: NDCC 12-63-04(1)(a)(b)(c)

109-02-04-08.1. Basic part-time law enforcement training course requirements.

1. The basic part-time law enforcement training course must include training based on performance objectives essential to part-time peace officers in the state of North Dakota, and must include classroom training, field training, and firearms training.

2. The basic part-time peace officer training course must include testing on the performance objectives. The school or agency conducting the basic part-time peace officer training course shall maintain records of tests and testing procedures.

3. An applicant for a part-time peace officer license must successfully complete the basic part-time peace officer training course within two years after the applicant started the basic part-time peace officer training course.

4. The school or agency conducting the basic part-time peace officer training course shall notify the board if the applicant for a part-time peace officer license fails to complete or pass any part of the basic part-time peace officer training course.

109-02-04-08.2. Basic reserve law enforcement training course requirements.

1. The basic reserve law enforcement training course must include training based on performance objectives essential to reserve peace officers in the state of

North Dakota, and must include classroom training, field training, and firearms training.

2. The basic reserve peace officer training course must include testing on the performance objectives. The school or agency conducting the basic reserve peace officer training course shall maintain records of tests and testing procedures.

3. An applicant for a reserve peace officer license must successfully complete the basic reserve peace officer training course within one year after the applicant started the basic reserve peace officer training course.

4. The school or agency conducting the basic reserve peace officer training course shall notify the board if the applicant for a reserve peace officer license fails to complete or pass any part of the basic reserve peace officer training course.

History: Effective July 1, 2006; amended effective April 1, 2014. General Authority: NDCC 12-63-02.1(7) Law Implemented: NDCC 12-63-02.1

109-02-04-09. Application for course certification.

The following procedures apply to all training courses for which certification is requested:

1. The individual or training provider seeking course certification shall submit an application and course description for program certification to the board on a form provided by the board at least fifteen days before the training is to commence.

2. The application must include:

a. A course description showing the title of course, a detailed course outline, name of person or agency preparing the training program, course objective, testing methods if applicable, course content, estimated length of course, and references; and

b. Information concerning the instructors' education and experience if the instructors have not been certified by the board.

3. Within thirty days after the completion of a training program, the training coordinator shall submit to the board a completed student roster on a form provided by the board. The completed form must include each ~~peace~~ officer's name, license number, employing agency, hours attended, course name, subject matter, training location, and the dates and times of training.

4. Course certification will not be granted unless the course meets the following criteria:

- a. Meets a law enforcement educational need;
- b. Is law enforcement or law enforcement administrative function related;
- c. Is based on knowledge, skills, or abilities needed to be an u ~~peace~~ officer; and
- d. Is a minimum of one hour in length and is offered in one-hour increments.

History: Effective October 1, 2004; amended effective July 1, 2006; April 1, 2014.
General Authority: NDCC 12-63-04(2)(d) Law Implemented: NDCC 12-63-04(1)(a)(b)(c)

~~**109-02-04-10. Notice of suspension, revocation, denial, or denial of renewal - Hearing.**~~

~~The board shall notify in writing any training provider when the board will deny, deny renewal of, suspend, or revoke certification of a training provider. The notice must specify the basis of the denial, denial of renewal, suspension, or revocation of the certification. The training provider may request a hearing in accordance with North Dakota Century Code chapter 28-32 on the issue of denial, denial of renewal, suspension, or revocation of the training provider's certification.~~

History: Effective October 1, 2004; amended effective April 1, 2014. General Authority: NDCC 12-63-04(2)(d) Law Implemented: NDCC 12-63-04(1)(a)(b)(c)

CHAPTER 109-02-05 PEACE OFFICER CODE OF CONDUCT AND OATH

Section

109-02-05-01 Peace Officer Code of Conduct

109-02-05-02 Peace Officer Oath

109-02-05-01. ~~Peace officer~~ Officer code of conduct.

1. This section applies to every ~~peace~~ officer licensed by the board and every P.O.S.T. license applicant for a ~~peace officer~~ license, including applicants for ~~limited and part-time~~ licenses. This section applies to on-duty and off-duty officers.
2. All applicants for a peace officer license, including a part-time license, reserve or limited license shall sign a code of conduct on a form provided by the board and shall submit the code of conduct with the application. In the absence of a signed code of conduct, a license may not be issued.
3. All applicants for a renewal of an peace officer license shall sign a code of conduct on a form provided by the board and shall submit the code of conduct with the application for renewal. In the absence of a signed code of conduct no license will be issued.
4. It is a violation of this section:
 - a. To possess or consume alcoholic beverages on duty or while in uniform on ~~duty~~ or off duty except as authorized or required for the lawful performance of the ~~peace~~ officer's duties.
 - b. To possess, sell, consume, use, or assist in the use of any illegal or unauthorized controlled substances or medications whether on ~~duty~~ or off duty except as authorized or required for the lawful performance of the officer's duties.
 - c. To engage in conduct that is in violation of the criminal laws of the state or federal government or ordinances of a political subdivision ~~of the state of North Dakota.~~

d. To engage in acts of corruption or bribery or to condone acts of corruption or bribery by other ~~peace~~ officers.

e. To willfully lie, willfully omit, provide false testimony, provide misleading information, or falsify written or verbal communications in reports when the information may be relied upon by the courts, state's attorneys, or other law enforcement officials.

f. To willfully provide false testimony, evidence, or misleading information in an application for a search warrant, arrest warrant, or criminal complaint.

g. To engage in illegal harassment or intimidation of another individual, or to condone acts of illegal harassment or intimidation by other ~~peace~~ officers.

h. To willfully fail to report the violation of a criminal law or North Dakota Century Code chapter 12-63 by an peace officer.

i. To engage in excessive use of force.

History: Effective April 1, 2014. General Authority: NDCC 12-63-04(2)(d) Law Implemented: NDCC 12-63-04(2)(d)

109-02-05-02. ~~Peace officer oath~~ Oath.

Every ~~peace~~ officer must be sworn in as an peace officer and take an oath that substantially complies with the following:

1. The ~~peace~~ officer will uphold the constitution and laws of the United States, the constitution and laws of the state of North Dakota, and the laws of the community that the ~~peace~~ officer has been entrusted to enforce.

2. The ~~peace~~ officer will not betray the ~~peace~~ officer's code of conduct, the trust of a fellow ~~peace~~ officer, and the trust of the public.

History: Effective April 1, 2014. General Authority: NDCC 12-63-04(2)(d) Law Implemented: NDCC 12-63-04(2)(d)

CHAPTER 109-02-06. CONFIDENTIAL INFORMANTS

Section

109-02-06-01. Confidential informants.

109-02-06-01. Confidential informants.

1. A peace officer utilizing a confidential informant should take reasonable steps to ensure the safety of the confidential informant and shall document that relationship using a written informant agreement agreed to by the parties prior to any controlled buy, controlled sale, or in-person surreptitious recording taking place.
2. A peace officer shall review the confidential informant agreement with each confidential informant. Each informant agreement must be in writing on a form approved by the board and must be signed by the confidential informant and the controlling agent who must be a peace officer. The peace officer shall maintain and control access to the written informant agreement.
3. A peace officer shall keep all confidential informant records secret with access limited to persons with a need to know or subject to a court order for disclosure.
4. When a controlling agent gets removed from an investigation using a confidential informant, that peace officer shall document this information on the informant agreement and notify the confidential informant. If the investigation continues, the peace officer assuming control of the confidential informant shall enter a new informant agreement with the confidential informant.
5. A peace officer who is acting as the controlling agent for a confidential informant shall request a criminal history report on all known target offenders of the investigation and verbally report the propensity for crimes of violence for each target offender to the confidential informant.
6. The controlling agent shall provide an operational/safety plan for each controlled buy, controlled sale, or in-person surreptitious recording attempted by a confidential informant.
7. A peace officer shall inform a paid confidential informant in writing of the compensation amounts prior to any controlled buy, controlled sale, or in-person surreptitious recording taking place.

8. A peace officer may not have any sexual contact or sexual relationship with any confidential informant.

9. A peace officer shall communicate to the confidential informant, if possible, when the confidential informant is deactivated. A peace officer shall enter a dated, written notation on the informant agreement when the confidential informant is deactivated.

10. A peace officer may not violate North Dakota Century Code chapter 29-29.5.

11. A reserve peace officer shall not utilize confidential informants.

History: Effective July 1, 2018.

General Authority: NDCC 12-63-04

Law Implemented: NDCC 12-63-04