

TITLE 109

PEACE OFFICER STANDARDS AND TRAINING BOARD

Article

109-01

General Administration

109-02

Peace Officer Standards

ARTICLE 109-01

GENERAL ADMINISTRATION

**Chapter
109-01-01**

Organization of the Board

**CHAPTER 109-01-01
ORGANIZATION OF THE BOARD**

Section

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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 In 2003 the legislative assembly repealed the statutory provisions relating to the law enforcement standards training and statistics division and established separate statutory authority for the board.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 certification licensing for peace officers, and 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 law and the rules of the board.

History: Effective October 1, 2004.

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 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 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; 12-63-01.1

Law Implemented: NDCC 28-32-02; 12-63-01.1

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
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**

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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 that employs, 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. "~~Auxiliary personnel~~" means ~~personnel utilized by a municipal, county, or state law enforcement agency to provide service to that jurisdiction on a nonsalaried basis. Auxiliary personnel may be members of organized groups, including posse, search and rescue, and security at dances, who operate adjunct to a police or sheriff's department and who do not have arrest powers or peace officer authority.~~

3. ~~“Basic law enforcement~~full time peace officer training course” means a board certified entrance level training course based on performance objectives essential for ~~law enforcement~~full time licensed peace officers in the state of North Dakota.
4. ~~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.
5. ~~4.~~ “Certified instructor” means an instructor certified by the board to instruct law enforcement subjects.
5. “Certified shooting course” means a shooting course that meets the requirements of these rules.
6. ~~“Certified training course”~~ means ~~a course of training that has been approved by the board.~~
7. “College credits” means credits earned for studies satisfactorily completed at an accredited institution of higher learning in a program leading to an academic degree.
8. “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.
9. “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.
10. “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.
11. ~~“In-service training”~~ refers to ~~a certified training program conducted by an agency for peace officers employed by the agency.~~ “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 to enforce the law or to conduct or engage in investigations or prosecutions for violations of law.
12. “Law enforcement training academy” means the highway patrol law enforcement training center.

13. "License requirement," means any term, or condition, or requirement established by the board that must be met before the board may issue, renew, or reinstate a peace officer's license.
14. "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.
15. "Moral turpitude" means conduct ~~contrary to justice, honesty, modesty, or good morals. that:~~
- a. Involves 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.
- ~~15-16.~~ "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.
- ~~16-17.~~ "Peace officer" means a salaried public servant employed 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.
- ~~17-18.~~ "Peace officer license" means a license issued by the board ~~and includes a part-time license.~~
- ~~18-19.~~ "~~Reserve officer~~" means ~~any person utilized by a criminal justice agency to provide service in that jurisdiction on a nonsalaried basis and who may be granted full arrest authority.~~
- ~~19.~~ "~~Salaried peace officer~~" means ~~a peace officer who is employed by a criminal justice agency and who receives regular compensation on a weekly, biweekly, semimonthly, or monthly basis.~~
20. "School" means a facility or academy that conducts board certified basic, advanced, and specialized peace officer training courses.

- 21.20. "Sidearm" means a handgun, including a semiautomatic handgun or revolver, carried by a peace officer as the officer's authorized duty weapon.
21. "Sidearm qualification" means the test a peace officer must complete on a certified shooting course with the peace officer's duty weapon.
22. "Training provider" means an individual, school, facility, or academy that conducts certified basic, advanced, and specialized peace officer training courses.
23. "Weapon" includes a handgun, shotgun, and rifle.

History: Effective October 1, 2004; amended effective July 1, 2006, amended effective _____, 2013

General Authority: NDCC 12-63-02.1(7), 12-63-04(2)(d)

Law Implemented: NDCC 12-63-02.1, 12-63-04

109-02-01-02. Background investigation required.

1. The agency ~~administrators~~ shall conduct a criminal history background investigation when the agency hires ~~a person~~ an individual to perform peace officer duties. The agency ~~administrator~~ shall file a copy of the completed criminal history background investigation on a form provided by the board. In addition to the form required, the agency shall ~~require that each person~~ submit a complete set of the person's individual's fingerprints and all other information necessary to complete a state and nationwide criminal history record check with the bureau of criminal investigation ~~for state processing and filing with the federal bureau of investigation for federal processing.~~
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 law enforcement training academy. The school shall file a copy of the completed criminal history background investigation on a form provided by the board. In addition to the form required, the school shall require each enrollee to submit 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 ~~for state processing and filing with the federal bureau of investigation for federal processing.~~

History: Effective October 1, 2004, amended effective _____, 2013

General Authority: 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 a peace officer license:

1. Must be a United States citizen, or in resident alien status, as defined by United States bureau of citizenship and immigration services laws and regulations.
2. Must be a high school graduate 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 a felony offense.
4. Must not have pled guilty to, pled nolo contendere to, or have been found guilty in any state or federal court for any felony, crime of an offense involving moral turpitude, crime of 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 N.D.C.C. Title 12.1 or Title 62.1, or any other criminal offense that the board determines has a direct bearing on the applicant's ability to serve as a peace officer.
4. 5. Must not be prohibited from using or possessing a firearm under state or federal law.
5. 6. Must have a valid driver's license
6. 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.
7. 8. Must have ~~been administered~~ passed a board-approved medical examination and ~~board approved~~ psychological examination administered by a board-approved provider.
8. 9. Must be employed as a salaried full time peace officer by a criminal justice agency or for a part-time peace officer license, employed or appointed by a criminal justice agency.
9. 10. Must not be prohibited from access to national crime information center and criminal justice information sharing data bases.
11. Must not have been dishonorably discharged from United States military service.

12. Must Shall submit all required documentation and application materials to the board no less than 5 days prior to attendance of any required basic peace officer training course.

History: Effective October 1, 2004; amended effective July 1, 2006, amended effective _____, 2013

General Authority: 12-63-02.1(7). 12-63-04(2)(d)

Law Implemented: NDCC 12-63-02.1, 12-63-04, 12-63-12

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

1. In addition to other requirements of law when an agency employs or appoints ~~a person as a~~ an individual to be a peace officer, the agency administrator shall notify the board of the employment of the individual on a form provided by the board and verify that the person/individual meets the requirements of the board North Dakota Century Code chapter 12-63 and these rules before the individual may begin performing peace officer duties. The agency shall submit a copy of the results of the background investigation, medical examination, and psychological examination and ~~The agency shall also forward a complete record of that peace officer's~~ the individual's previous training and law enforcement experience to the board.
2. ~~A person may not legally exercise the authority of a peace officer unless the board has issued a license or a limited license and the person is employed by a criminal justice agency as a salaried peace officer, or the person meets one of the exceptions of North Dakota Century Code section 12-63-03, or the person has been employed or appointed by a criminal justice agency as a part-time peace officer and the board has issued a part-time peace officer license to the person.~~
3. Only a salaried peace officer ~~that~~ who has a limited license may attend the basic ~~law enforcement~~ full time peace officer training course at the law enforcement training academy. The peace officer's employing agency shall submit a verified statement to the board that the peace officer is a salaried full time peace officer of the agency in connection with the peace officer's application to attend the law enforcement training academy for the basic ~~law enforcement~~ full time peace officer training course and that the peace officer is receiving a salary while attending the law enforcement training academy.
4. ~~3.~~ Only ~~a salaried~~ an individual hired to be a full time peace officer may apply for a limited license or a peace officer license, ~~take the licensing examination,~~ 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 ~~salaries~~ full time peace officer of the agency in connection with the peace officer's application for a limited license, ~~peace officer license, an application to take the licensing examination, or an application for renewal or reinstatement of a license.~~

- ~~5. A person employed or appointed by a criminal justice agency to be a part-time peace officer may attend the law enforcement training academy for the purpose of taking any part of the basic part-time law enforcement training course.~~
- ~~6. An agency that is employing or appointing a person to be a peace officer with a part-time peace officer license shall submit a verified statement to the board in connection with the person's application for a part-time peace officer license that the agency will employ or appoint the person to be a peace officer and that the applicant has completed the basic part-time law enforcement training course.~~

History: Effective October 1, 2004; amended effective July 1, 2006, amended effective _____, 2013

General Authority: 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

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

1. Every agency shall provide or obtain necessary training for its peace officers in order that its peace officers meet all board license requirements.
2. Every agency shall maintain records of training provided to its peace officers, including and make the records available to the board upon request.
 - ~~a. Curriculum~~
 - ~~b. Listing of instructors.~~
 - ~~c. Attendance.~~
 - ~~d. Test and examination scores.~~
3. Every agency shall notify the board when it hires a peace officer, when it terminates the employment of a peace officer, or when a peace officer resigns from employment 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 or the rules promulgated by the board by a peace officer employed by the agency:
 - b. An arrest, plea of guilty or finding of guilt for a felony offense by a peace officer employed by the agency; or
 - 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 N.D.C.C. Title 12.1 or Title 62.1, or
 - d. Any other criminal offense the board may determine has a direct bearing on the applicant's ability to serve as a peace officer.

History: Effective October 1, 2004; amended effective _____, 2013

General Authority: 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. The board shall maintain a record of certified instructors, certified training courses, and certified shooting courses. Repealed effective _____, 2013.~~

~~**History:** Effective October 1, 2004.~~

~~**General Authority:** NDCC 12-63-04(2)(d)~~

~~**Law Implemented:** NDCC 12-63-04(1)(b)(d)~~

109-02-01-07. Waiver. The board may waive the requirements of any of the rules in this article upon a showing of good cause. Good cause means a situation involving extreme hardship that places an undue burden on a peace officer or agency.

History: Effective October 1, 2004

General Authority: 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 ~~person~~individual may waive the ~~provisions of North Dakota Century Code chapters 28-32 and 54-57~~these requirements and consent to disposition by the board. Appeals must be in accordance with North Dakota Century Code, ~~chapter 28-32 and subsection 3 of North Dakota Century Code section 12-63-12.~~

History: Effective October 1, 2004, amended effective _____, 2013

General Authority: NDCC 12-63-04(2)(d)

Law implemented: NDCC 12-63-04, 12-63-12

**CHAPTER 109-02-02
LICENSING AND TRAINING REQUIREMENTS**

Section

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109-02-02-02	<u>Auxiliary Personnel Supervision of a part-time licensed peace officer.</u>
109-02-02-03	<u>Reserve Officers [Repealed]</u>
109-02-02-04	Limited Peace Officer License
109-02-02-05	<u>Waiver of Required Training - out-of-state and federal peace officers</u>
109-02-02-06	Licensing Examinations
109-02-02-07	<u>Licensing Employment of Peace Officers</u>
109-02-02-08	<u>Medical and Psychological Evaluation Examination</u>
109-02-02-09	Compliance With Sidearm Qualification as a License Requirement
109-02-02-10	<u>License Certificate [Repealed]</u>
109-02-02-10.1	Scope of Part-Time Peace Officer Authority
109-02-02-11	<u>Licensing, Renewal, and Reinstatement Fees</u>
109-02-02-12	Surrender of License Certificate
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109-02-02-15	<u>License Requirements to Remain Licensed or to Obtain Renewal or Reinstatement of a License Continuing Education Requirements</u>
109-02-02-16	License Renewal
109-02-02-17	Termination of Peace Officer Status <u>Employment</u>
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 law enforcement 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 law enforcement peace officer training course within two years after the applicant commenced taking the classes in the basic part-time law enforcement peace officer training course. The applicant must

~~successfully pass a licensing examination prescribed by the board before the board may issue the applicant a part-time peace officer's license.~~

3. ~~Training for reserve officers is the responsibility of the reserve officer's agency. An individual who has not 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. ~~Training for auxiliary personnel is the responsibility of the auxiliary personnel's agency. An individual who has not been employed or appointed by an agency for two or more years, 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 not 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.~~
- 5.6. ~~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 extreme hardship/good cause.~~

History: Effective October 1, 2004; amended effective July 1, 2006, amended effective _____, 2013

General Authority: 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. Auxiliary personnel. ~~These rules do not preclude payment of compensation to auxiliary personnel who assist in maintaining order and in security functions, including traffic and crowd control at sporting events, parades, or similar events.~~ **Supervision of a part-time licensed peace officer.** Supervision of a peace officer with a part-time license means the supervising officer has the ability to have direct personal contact with the part-time time peace officer within a reasonable time and the part-time 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 _____, 2013

General Authority: NDCC ~~12-63-04(2)(d)~~ 12-63-02.1(3)(7), 12-63-04(2)(d)

Law Implemented: NDCC ~~12-63-03(1)~~ 12-63-02.1, 12-63-04

109-02-02-03. Reserve officers. ~~These rules do not preclude payment of compensation to reserve officers who assist in maintaining order and in security functions including traffic and crowd control at sporting events, parades, and other similar events. No agency may pay a reserve officer on a full-time or part-time basis for the performance of peace officer duties unless the reserve officer meets all board license requirements. Repealed effective _____, 2013.~~

History: Effective October 1, 2004.

General Authority: NDCC ~~12-63-04(2)(d)~~

Law Implemented: NDCC ~~12-63-03(2)~~

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

1. ~~The board may issue a limited peace officer license to a person~~ individual who 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 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 ~~person~~ individual has successfully completed ~~a certified~~ 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 person~~ individual failed the examination. ~~A person shall take the licensing examination within thirty days after completing the certified basic training course. A person may not take the~~

~~examination more than three times. After the second unsuccessful attempt and before retaking the licensing examination, the person must successfully complete a board approved law enforcement basic training course. An individual with a limited license may retake the licensing exam 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 law enforcement training academy.~~

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.

History: Effective October 1, 2004; amended effective July 1, 2006, amended effective _____, 2013

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

109-02-02-05. Waiver of required training – out-of-state and federal peace officers.

1. ~~A person~~An individual having peace officer experience or having completed an equivalent basic full time peace officer training not certified by the board~~course conducted by another state or federal agency~~ may qualify for a partial waiver of applicable basic full time peace officer training or license requirements. The administrator of the agency employing the ~~person~~individual may apply to the board for a partial waiver. The board shall review all such applications for a waiver and may grant a complete or partial waiver. ~~The person must be currently licensed or certified in another state, must have a minimum of one year of full time experience as a certified or licensed peace officer, and must successfully complete the licensing examination and sidearm qualification before the board may grant a partial or complete waiver of the license requirement and issue a peace officer license.~~

- a. Training received in states with from a state or federal agency with laws governing or regulating peace officer training must have been approved or certified in the state by the governing or regulating body of the state or federal agency in which the training was individual received the training.
 - b. The board may prescribe additional training as a license requirement for a person in order for the person to comply with board requirements 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.
2. If the board has granted a peace officer a waiver or an applicant a partial waiver, the board may only allow the peace officer one attempt applicant two attempts to successfully complete the licensing examination. If a passing score is not obtained on the first attempt, the board shall deny the application for the waiver and the peace officer must complete the full certified basic training course before taking the licensing examination for the second time applicant may retake the exam, but only if the applicant retakes the exam within thirty days from the date of the first exam. 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 state or with another federal 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 state or with a federal 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 agency.

History: Effective October 1, 2004; amended effective _____, 2013

General Authority: NDCC 12-63-04(2)

Law Implemented: NDCC 12-63-04; 12-63-06

109-02-02-06. Licensing examinations.

1. **Application.** ~~Licensing examinations must be according to board~~ **Examination requirements.** An applicant for a peace officer license is eligible to take the licensing examination upon completion of the basic full time peace officer training course. A minimum score of seventy percent is necessary for successful completion of the licensing examination. The applicant for any licensing examination shall submit a request prior to the date of the examination. The appropriate nonrefundable applicant shall pay the examination fee established by the board must accompany the request prior to taking the examination.
2. **Retaking examinations.** ~~An applicant who fails an~~ the first examination may retake that ~~the~~ examination one time upon furnishing to the board a renewed request and ~~the~~ required examination fee. After the second unsuccessful attempt, and before retaking the examination, the applicant must shall successfully complete an ~~the entire board-approved law enforcement basic full time peace officer training program~~ course before the applicant may re-take 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 _____, 2013

General Authority: NDCC 12-63-04(2)(d)

Law Implemented: NDCC 12-63-04, 12-63-07

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

1. **Notification.** ~~The employing agency shall notify the board of the appointment of any person to the position of peace officer before the first day of the person's employment. The agency shall provide the notification on a form provided by the board.~~
2. **Application procedures for a full time peace officer license.** If the person an individual is not already a licensed peace officer when hired by an agency, but the individual is eligible to be licensed, the person 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 person applicant and the agency administrator shall verify that the applicant is eligible to be licensed. The applicable license fee must accompany the application.

~~3.~~ **2. Application procedures for a part-time peace officer license.** The employing or appointing agency shall notify the board of any person it will employ or appoint to be a part-time peace officer. The agency shall provide the notification on a form provided by the board 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 _____, 2013

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 evaluation examination. An applicant for a peace officer license shall ~~undergo~~ successfully complete a board-approved psychological and medical evaluation and examination by a board-approved provider. An applicant shall also successfully complete a medical examination. The employing agency shall submit the results of the evaluation, 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 _____, 2013

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 a peace officer 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 _____, 2013

General Authority: NDCC 12-63-04(2)(d)

Law Implemented: NDCC 12-63-04(1)(d)

109-02-02-10. License certificate. ~~The board shall issue a license certificate to a person who has complied with the requirements of law and whose affirmations are consistent with the board's records and payment of required fees. The period of the initial licensure must be determined according to section 109-02-02-11. Repealed effective _____, 2013.~~

History: Effective October 1, 2004, amended effective _____, 2013

General Authority: NDCC 12-63-04(2)(d), 12-63-05
Law Implemented: NDCC 12-63-05, 12-63-10

109-02-02-11. Licensing, Renewal, and Reinstatement Fees.

1. The following fees are nonrefundable:
 - a. ~~Application for~~Licensing examination fee - twenty-five dollars.
 - b. Initial License fee – the initial license fee is forty- five dollars if the licensee is to be licensed for thirty to thirty six months; thirty dollars if the licensee is to be licensed for at least eighteen months but less than thirty months; and fifteen dollars if the licensee is to be licensed for less than eighteen months.
 - c. Renewal 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. ~~Reinstatement fee~~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.
 - f. g. Duplicate license fee - ~~twenty-five~~ten dollars.
 - h. Late sidearm qualification fee – one hundred dollars.
 - i. Reinstatement fee for sidearm suspension or revocation – two hundred fifty dollars.
2. ~~License period and renewal terms~~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.
 - a. ~~If the peace officer's surname begins with the letters A through G, the peace officer's license term is for the period July 1, 2002, through December 31, 2005, and the peace officer shall renew the license by December thirty first every third year thereafter.~~
 - b. ~~If the surname begins with the letters H through M, the peace officer's license term is for the period July 1, 2003, through~~

~~December 31, 2006, and the peace officer shall renew the license by December thirty first every third year thereafter.~~

~~c. If the surname begins with the letters N through Z, the peace officer's license term is for the period July 1, 2001, through December 31, 2004, and the peace officer shall renew the license by December thirty first every third year thereafter.~~

~~d. If a peace officer is newly hired during the three year cycle, the officer shall meet the prorated share of the requirements needed until the officer's renewal date arrives.~~

History: Effective October 1, 2004; amended effective _____, 2013

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 certificate. Licenses remain the property of the board. A peace officer shall surrender the officer's license certificate and any renewal certificates 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 _____, 2013

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. Lapse/Reinstatement of license. A peace officer that does not perform duties as a peace officer, is no longer employed by an agency, or otherwise allows the peace officer's license to expire shall comply with the following conditions for reinstatement:

- ~~1. A person who has not been employed by a law enforcement agency for less than two years may apply for reinstatement of the person's peace officer license. The person shall pay the reinstatement fee. The person shall obtain sufficient makeup continuing education hours within three months of reinstatement.~~
- ~~2. A person who has not been employed by a law enforcement agency for two to five years may apply for reinstatement of the person's peace officer license. The person shall successfully complete the licensing examination and obtain sufficient continuing education hours within six months of reinstatement. The person shall pay the reinstatement fee and the application for examination fee.~~
- ~~3. A person who has not been employed as a peace officer by a law enforcement agency for five to seven years may apply for reinstatement of the person's peace officer license. The person shall~~

~~successfully complete the licensing examination and pay the reinstatement fee and the application for examination fee. The person shall attain the sufficient makeup continuing education hours within six months of reinstatement. If the person fails the licensing examination on the first attempt, the person shall successfully complete the process that is required for a new peace officer.~~

- ~~4. A person who has not been employed as a peace officer by a law enforcement agency for seven or more years shall meet all license requirements necessary for an original application for a peace officer license.~~
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 _____, 2013

General Authority: NDCC 12-63-04(2)(d)

Law Implemented: NDCC 12-63-04, 12-63-12

109-02-02-14. Inactive status. ~~A person~~An individual who does not perform duties as a licensed peace officer or is no longer employed by an agency may request that ~~persons license be placed~~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 person's licenseindividual may remain on inactive status indefinitely if the personindividual 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 board requirementsthe 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.

History: Effective October 1, 2004; amended effective _____, 2013

General Authority: NDCC 12-63-04(2)(d)

Law Implemented: NDCC 12-63-11(2)

109-02-02-15. License requirements to remain licensed or to obtain renewal or reinstatement of a licenseContinuing education requirements.

1. In order for a peace officer to remain licensed, the peace officer shall ~~continue to meet~~comply with all the ~~minimum~~license requirements and shall receive a minimum of sixty hours of ~~board-certified or board-approved~~certified training every three years, ~~including up to sixty hours of certified law enforcement training or up to sixty hours attending board-approved or board-certified criminal justice seminars or a combination of both, as long as there is a total of sixty hours. 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. ~~The training may be attended in any hour grouping, as long as it totals a minimum of sixty hours within a three-year period. 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. All ~~Every~~ peace officers officer shall meet the sixty-hour continuing ~~certified training license~~education requirements ~~by the following dates: 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.~~
 - a. If the peace officer's surname begins with the letters A through G, the peace officer shall meet the sixty-hour continuing education requirement for the period July 1, 2002, through December 31, 2005, and shall meet the sixty-hour continuing education requirement within every three years by December thirty-first of the third year hereafter.
 - b. If the surname begins with the letters H through M, the peace officer shall meet the sixty-hour continuing education requirement for the period July 1, 2003, through December 31, 2006, and shall meet the sixty-hour continuing education requirement within every three years by December thirty-first of the third year thereafter.

- ~~c.~~ If the surname begins with the letters N through Z, the officer shall meet the sixty-hour continuing education requirement for the period July 1, 2001, through December 31, 2004, and shall meet the sixty-hour continuing education requirement within every three years by December thirty-first of the third year thereafter.
 - ~~d.~~ If an officer is newly hired during the three-year cycle, the peace officer shall meet the prorated share of the sixty-hour continuing education requirements needed until the peace officer's license renewal date arrives.
3. It shall be the duty of each agency that employs peace officers to forward a record of each peace officer's board-approved training to the board prior to the peace officer's license renewal date.
4. A peace officer ~~that~~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:
- ~~a.~~ ~~Three~~Four semester credit hours of college credit in a criminal justice-related or job-related topic; ~~or.~~ The peace officer shall submit documentation of successful course completion within thirty days after completion of the college course.
 - ~~b.~~ ~~Five~~ quarter hours of college credit in a criminal justice-related or job-related topic.
5. If a training course or seminar does not have board preapproval, the peace officer or the peace officer's employing agency shall request approval of the training course or seminar at least thirty days prior to the commencement of the training course or seminar. A course or seminar that has not been approved by the board may not qualify toward the sixty-hour continuing training requirement.
- 6.4. If a 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 and is no longer in effect and the peace officer must go through the reinstatement process.

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 a 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 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 seminar or agenda.
 - b. Within thirty days after completion of 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 include 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.

History: Effective October 1, 2004; amended effective _____, 2013

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. A 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. **Certificate of renewalRenewal.** The board shall issue a certificate of license renewal, which is valid for three years, to each peace officer ~~that~~who has submitted the appropriate fee on or before December

~~thirty-first of the year the peace officer's license must be renewed~~expires and who has ~~complied~~verified compliance with all licensing requirements, including continuing education and annual sidearm qualification requirements. ~~If the peace officer fails to apply for renewal by December thirty-first, the peace officer's license expires and is no longer in effect.~~

3. **Late renewal.** ~~If a 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 may not perform peace officer duties until the peace officer has renewed the license in accordance with the requirements of this section. the~~The peace officer may apply for late renewal no later than ~~January~~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 requirements and annual sidearm qualification.
4. **Reinstatement of expired**Expiration of license. ~~If a peace officer fails to apply for renewal of a license within one month after the application for renewal is due, the peace officer may only apply for reinstatement of the license. The application for reinstatement must include payment of the reinstatement fee provided in these rules. The board may reinstate the applicant's peace officer license after the applicant has complied with all board license requirements, including continuing education and sidearm qualification requirements 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 individual 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 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 law enforcement training academy.~~

History: Effective October 1, 2004; amended effective _____, 2013

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 status employment. An agency's termination of a person's peace officer status as defined in ~~North Dakota Century Code section 12-63-01~~ officer's employment, whether the termination is voluntary or involuntary, may not preclude ~~revocation, suspension, or denial of the person's peace officer license~~ 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 _____, 2013

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 a peace officer's employment, the agency ~~administrator~~ shall notify the board within ~~fivethirty~~ days of the termination on a form ~~prescribed~~ 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 ~~administrator~~ indicating whether or not the agency ~~administrator~~ is recommending denial, suspension, or revocation of the peace officer license ~~to the board~~.

History: Effective October 1, 2004; amended effective _____, 2013

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 a peace officer in writing when ~~there is a reasonable basis~~ 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 ~~also~~ notify a peace officer's employing agency if the board has commenced adverse license action against a peace officer currently employed by the agency.

History: Effective October 1, 2004; amended effective _____, 2013

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	Weapons<u>Use of Force Examination and Weapons Safety and Proficiency Examination</u>
109-02-03-03	Shotgun, Rifle, and Special Weapons Certification <u>[Repealed]</u>
109-02-03-04	Requalification<u>Sidearm Qualification</u> 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 Qualification
109-02-03-08	Waiver<u>[Repealed]</u>
109-02-03-09	Notice of Denial or Revocation of Qualification – Hearing <u>[Repealed]</u>

109-02-03-02. ~~Weapons~~Use of force examination and weapons safety and proficiency examination. The board shall establish and certify a weapons safety and proficiency qualification examination, including:

1. A written examination, ~~including weapons safety, weapons handling, mechanical operations, covering criminal and civil liability and North Dakota law on the use of force, and North Dakota laws on the use of force and on firearms requirements.~~ A minimum score of seventy percent overall with one hundred percent required for the North Dakota law portion is necessary for successful completion of the written examination.
2. A certified sidearm shooting course using the peace officer's duty weapon, duty equipment, and duty ammunition or ammunition ballistically similar to the ammunition carried the peace officer carries on duty. Successful completion of ~~this~~ the weapons safety, proficiency portion of the qualification examination requires a minimum score of seventy percent and the demonstration of competence in sidearm skills, including the safe handling, loading, and unloading 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.

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

History: Effective October 1, 2004; amended effective _____, 2013

General Authority: NDCC 12-63-04(2)(d)

Law Implemented: NDCC 12-63-04

109-02-03-03. Shotgun, rifle, and special weapons certification.—An agency may require peace officers that carry a shotgun, rifle, or special weapons, including assault rifles, sniper or countersniper rifles, or automatic weapons, to complete a certified rifle, shotgun, or special weapons examination. Repealed effective _____, 2013.

History: Effective October 1, 2004.

General Authority: NDCC 12-63-04(2)(d)

Law Implemented: NDCC 12-63-04

109-02-03-04. Requalification Sidearm Qualification required annually. Every peace officer shall requalify/qualify with the peace officer's duty weapon each year as a license requirement.

1. Sidearm requalification/qualification requires successful completion of a certified shooting course at least once during each calendar year. If a peace officer fails to qualify by the end of the calendar year, the peace officer may not carry a duty weapon until the officer successfully completes the sidearm qualification and pays the late sidearm qualification fee required under these rules.
2. For those 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 officers who have not requalified in over 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 _____, 2013

General Authority: NDCC 12-63-04(2)(d)

Law Implemented: NDCC 12-63-04

109-02-03-05. Certified shooting course. All agencies that use their own shooting course must have certification of the course from the board.—A

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

History: Effective October 1, 2004; amended effective _____, 2013

General Authority: NDCC 12-63-04(2)(d)

Law Implemented: NDCC 12-63-04

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

1. The board shall review all applications for sidearm qualification ~~and requalification~~. The board may deny or revoke an application for sidearm qualification ~~or requalification~~:
 - 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 requalification;
 - 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 ~~requalify~~ 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 ~~and requalification~~ 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 ~~or requalification~~.
 - e. ~~Shooting~~ Identification of the certified shooting course.

History: Effective October 1, 2004; amended effective _____, 2013

General Authority: NDCC 12-63-04(2)(d)

Law Implemented: NDCC 12-63-04(1)(d)

~~109-02-03-08. Waiver.~~ The board may waive the requirement of any provision of this chapter upon presentation of documentary evidence by an agency that a peace officer has satisfactorily completed equivalent training or has equivalent experience. Repealed effective _____, 2013. Repealed effective _____, 2013.

~~109-02-03-09. Notice of denial or revocation of qualification – Hearing.~~ The board shall notify in writing any peace officer and the agency administrator when the board believes there is a reasonable basis for revoking or denying qualification or requalification of the peace officer. The notice must specify the basis of the revocation or denial. Every peace officer has the right to a hearing on the issue of denial or revocation. Repealed effective _____, 2013.

**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 <u>Must be Recertified</u> Requirements
109-02-04-07	Certification of Qualified Schools and Qualified Training Courses
<u>109-02-04-07.1</u>	<u>Certified training provider suspension, revocation, or imposition of probationary terms.</u>
109-02-04-08	<u>Basic Law Enforcement Full Time Peace Officer Training Course Requirements</u>
109-02-04-08.1	Basic Part-Time Law Enforcement Training Course Requirements
109-02-04-09	Application for Course Certification
109-02-04-10	Notice of <u>suspension, revocation, denial, or denial of renewal</u> - Hearing.

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. ~~It is the responsibility of each agency administrator or agency training officer to regularly supervise its instructors to ensure that its instructors meet the requirements of this article and maintain quality instruction.~~ The board shall maintain a record of certified instructors, certified training courses, and certified shooting courses.

History: Effective October 1, 2004; amended effective _____, 2013

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 ~~person~~ licensed peace officer applying for certification as a law enforcement instructor to teach peace officer subjects, including patrol, investigation, or the use of weapons, must have:
 - a. ~~A high school diploma or its equivalent;~~
 - b. Two years' experience as a licensed or certified peace officer ~~or~~ equivalent;
 - eb. Verified training or documented experience in each subject to be taught;
 - dc. Compliance with all board requirements, including successful completion of a course of instructor development training or its equivalent approved by the board, ~~including training in the areas of communication, psychology of learning, techniques of instruction, use of instructional aids, preparation and use of lesson plans, preparing and administering tests, teaching resources, and motivation;~~ and
 - ed. 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 _____, 2013

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 ~~four years~~the instructor's peace officer license period. At the end of the ~~four-year~~ instructor's peace officer license period, the board may renew the instructor's certification provided that:

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

2. The instructor is recommended by the agency administrator or training officer ~~under whose supervision the instructor last instructed;~~ and
3. A law enforcement instructor who has not completed a ~~board-approved~~certified instructor refresher course during the ~~forty-eight - month period of certification~~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.
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 _____, 2013

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.
3. ~~The board shall forward an instructor's certificate to an applicant upon approval of an application by the board.~~

History: Effective October 1, 2004; amended effective _____, 2013

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. ~~To~~In order to be certified as a weapons instructor, a peace officer shall successfully complete a ~~board-certified method of instruction~~certified instructor development course and a ~~board-certified~~certified weapons instructor development course.
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 ~~board-certified~~certified 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 _____, 2013

General Authority: NDCC 12-63-04(2)(d)

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

109-02-04-06. Weapons instructors must be recertified requirements.

1. ~~Weapons instructors must apply to the board for instructor recertification every four years by the anniversary date of the instructor's original certification. Each instructor shall successfully complete a board-certified weapons instructor refresher course at least once during the four-year period in order to be eligible for recertification.~~
2. Within ~~fifteen~~thirty days after a peace officer or applicant has completed a certified shooting course, the weapons instructor shall forward a completed sidearm qualification ~~or requalification~~ form for the peace officer or applicant to the ~~executive secretary~~board.
- ~~3.2.~~ The board may suspend a weapons instructor's certification if the weapons instructor fails to submit a peace officer's or applicant's sidearm qualification ~~or requalification~~ form to the ~~executive secretary~~board within ~~fifteen~~ thirty days after the peace officer has completed the sidearm qualification on a certified shooting course.
- ~~4.3.~~ 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. ~~The weapons instructor may request an administrative hearing on the issue of suspension of the weapons instructor's certification.~~

History: Effective October 1, 2004; amended effective _____, 2013

General Authority: NDCC 12-63-04(2)(d)

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

109-02-04-07. Certification of qualified school training providers and qualified training courses. The board shall certify those schools it has determined are qualified to teach one or more law enforcement-related subjects

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

1. The board shall issue temporary certification to qualified schools offering training programs on a one-time or infrequent basis and for qualified training courses that are offered on a one-time or infrequent basis. Temporary certification may only be for a specific program and may only be issued for a specified period of time not to exceed one year. The board may not issue temporary certification for training conducted within an agency on an unscheduled or infrequent basis for less than an hour per session or by an uncertified instructor. The training provider shall file satisfactory proof of the adequate training equipment, facilities, and qualified instructors with the board during the certification period. Adequate training equipment and facilities includes sufficient supplies and safety assurances. The training provider's instructors must have experience, training, and education in law enforcement subjects before the board may certify the instructor.
2. The board shall grant continuing certification to qualified schools conducting peace officer training on a regular basis and for qualified training courses that are conducted on a regular basis. Continuing certification remains effective until surrendered or revoked, but may not exceed four years. 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 _____, 2013

General Authority: NDCC 12-63-04(2)(d)

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

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

1. The board may deny, suspend or revoke a training provider's certification, or impose probationary conditions on the training provider, or suspend or revoke certification of a training course if the training provider:

- 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.
 - c. Failure to comply with North Dakota Century Code chapter 12-63 and the rules of the board
2. Failure to to comply with board requirements may result in one or more of the following:
- a. A letter of censure to the training provider.
 - b. Formal or informal probation for the certified training provider.
 - c. Denial, denial of renewal, suspension or revocation of certification of the certified training provider or training course.

History: Effective _____, 2013

General Authority: NDCC 12-63-04(2)(d)

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

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

- 1. ~~The basic law enforcement~~full time peace officer training course must ~~be include training based on performance objectives essential for law enforcement in the state of North Dakota, regardless of agency or assignment and must include classroom training, field training, and firearms training.~~
- 2. ~~The board may waive the requirement to take any part of the basic law enforcement training course upon application by an agency and submission of sufficient documentation that the peace officer has equivalent training or experience.~~

3. The basic ~~law enforcement~~full time peace officer training course shall must include testing to ~~determine whether a trainee has learned and can perform the performance objectives~~on the performance objectives. The ~~academy~~training provider conducting the basic law enforcement~~full time peace officer~~ training course shall maintain accurate-records of tests and testing procedures.
- 4.3. The academy shall notify the board and the trainee's agency whenever the trainee fails to complete or pass any part of the basic law enforcement training course.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 _____, 2013

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 ~~be~~include training based on performance objectives essential to part-time peace officers in the state of North Dakota, ~~regardless of agency assignment~~ and must include classroom training, field training, and firearms training.
2. The basic part-time law enforcement~~peace officer~~ training course shall must include testing to ~~determine whether an applicant has learned and can perform~~on the performance objectives. The school or agency conducting the basic part-time law enforcement~~peace officer~~ training course shall maintain accurate-records of tests and testing procedures.
3. An applicant for a part-time peace officer license must successfully complete the basic part-time law enforcement~~peace officer~~ course within two years after the applicant started the basic part-time law enforcement~~peace officer~~ training course.
4. The school or agency conducting the basic part-time peace officer training course shall notify the board and the trainee's agency whenever the trainee if the applicant for a part-time peace officer license fails to complete or pass any part of the basic part-time law enforcement training course.

History: Effective July 1, 2006; amended effective _____, 2013

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 person who plans or coordinates a training program individual or training provider seeking course certification shall submit an application and course description for program certification to the board no later than thirty days in advance of the date the training program 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 curriculum description showing the date and location of the course, title of course, name of person or agency preparing the training program, student, course objective, terminal performance objectives, testing methods if applicable, method of instruction, course content, schedule of presentation, estimated length of course, and references and supporting materials; and
 - b. Information concerning the instructors' education and experience if the instructors have not been certified by the board.
3. Within fifteen thirty days after the completion of a training program, the training coordinator shall submit to the board a completed student roster on a form approved provided by the board. The completed form must include each peace officer's name, license number, and employing agency, hours attended, course name, and subject matter, the 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 related;
 - c. Is law enforcement administrative function related; and,
 - d. Is based on knowledge, skills, or abilities needed to be a peace officer.
 - e. Is a minimum of one hour in length and is offered in one hour increments.

History: Effective October 1, 2004; amended effective _____, 2013

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 ~~instructor or school training provider~~ when there is a basis for ~~revoking or denying certification or renewal of~~ the board will deny, deny renewal of, suspend, or revoke certification of an ~~instructor or school~~ a training provider. The notice must specify the basis of the denial, denial of renewal, suspension, or revocation or denial of the certification. The ~~instructor or school has the right to~~ 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 _____, 2013

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 Code of Conduct**

1. This section applies to every peace officer licensed by the board and every 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 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 no license will be issued.
3. All applicants for a renewal of a 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 engage in conduct that damages, or has the likely result of damaging or bringing a public image, integrity, or reputation of a law enforcement agency or the peace officer into discredit or disrespect.
 - b. 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 officers duties.
 - c. 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.
 - d. 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, whether or not the officer has been charged with or convicted of an offense.

- e. To engage in acts of corruption or bribery or to condone acts of corruption or bribery by other peace officers.
- f. To willfully lie, 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.
- g. To willfully provide false testimony, evidence or misleading information in an application for a search warrant, arrest warrant, or criminal complaint.
- h. To engage in illegal harassment or intimidation of another individual, or to condone acts of illegal harassment or intimidation by other peace officers.
- i. To willfully fail to report the violation of a criminal law or North Dakota Century Code chapter 12-63 or these rules by a peace officer.

History: Effective _____, 2013

General Authority: NDCC 12-63-04(2)(d)

Law Implemented: NDCC 12-63-04(2)(d)

109-02-05-02. Peace Officer Oath

1. Every peace officer must be sworn in as a peace officer and take an oath that includes the following:
 - a. 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
 - b. 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 _____, 2013

General Authority: NDCC 12-63-04(2)(d)

Law Implemented: NDCC 12-63-04(2)(d)