ARTICLE 109-02
PEACE OFFICER STANDARDS

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CHAPTER 109-02-01
GENERAL PROVISIONS

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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, 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.

5. "Certified instructor" means an instructor certified by the board to instruct law enforcement or basic correctional officer training courses.

6. "Certified shooting course" means a shooting course that meets the requirements of these rules.

7. "Certified training" means training approved by the board.

8. "College credits" means credits earned for studies satisfactorily completed through an accredited institution of higher learning in a program leading to an academic degree.

9. "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.

10. "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.

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.

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

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

14. "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.

15. "Law enforcement training academy" means the law enforcement training center.

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 officer's license.

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.

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 peace officer standards and training board licensees.

20. "Online 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 multimedia 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 may not be considered "online training".

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.

22. "Peace officer" means a 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.

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.

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.

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

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

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

30. "Weapon" includes a handgun, shotgun, and rifle.

History: Effective October 1, 2004; amended effective July 1, 2006; April 1, 2014; July 1, 2018; April 1, 2022.
General Authority: NDCC 12-63-02.1(7), 12-63-02.3(5), 12-63-04(2)(f)
Law Implemented: NDCC 12-44.1-01(10), 12-44.1-04(4), 12-63-02, 12-63-02.1, 12-63-04

109-02-01-01.1. Application of chapter to all licensees.

The provisions of this chapter apply to all licensees and officers who have been issued a license unless otherwise provided for in this chapter.

History: Effective July 1, 2006; amended effective April 1, 2022.
General Authority: NDCC 12-63-02.1(7), 12-63-02.3(5), 12-63-04(2)(f)
Law Implemented: NDCC 12-63-02.1, 12-63-02.3, 12-63-04

109-02-01-02. Criminal history background investigation required.

1. The agency shall conduct a criminal history background investigation when the agency hires or appoints an individual to perform officer duties by 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 law enforcement training center by 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; April 1, 2022.
General Authority: NDCC 12-63-02.1(7), 12-63-02.3(5), 12-63-04(2)(f)
Law Implemented: NDCC 12-63-02.3, 12-63-04(1)(a), 12-63-06(3)

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

An applicant for an 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, or have a 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 offenses involving moral turpitude, sexual violations, domestic violence, violation of a domestic violence restraining order, child abuse or neglect, 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 officer.

5. Must not be prohibited from using or possessing a firearm.

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, osteopathic physicians, 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 an officer 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 officer code of conduct.

12. 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; April 1, 2022.
General Authority: NDCC 12-63-02.1(7), 12-63-02.3(5), 12-63-04(2)(f), 12-63-06, 12-63-12(2)
Law Implemented: NDCC 12-63-02.1, 12-63-02.3, 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 an individual to be an 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 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 law enforcement training 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 law enforcement training center for the basic full-time peace officer training course and that the peace officer is receiving a salary while attending the law enforcement training 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; April 1, 2022.
General Authority: NDCC 12-63-02.1(7), 12-63-02.3(5), 12-63-04(2)(f)
Law Implemented: NDCC 12-63-02.1, 12-63-02.3, 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 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 forty hours in any thirty-day period unless a state of emergency exists.

History: Effective April 1, 2022.
General Authority: NDCC 12-63-02.3(5)
Law Implemented: NDCC 12-63-02.3

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

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

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

3. Every agency shall notify the board when it hires an officer, when it terminates the employment or appointment of an officer, or when an 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 by an officer employed or appointed by the agency;

b. An arrest, plea of guilty, or finding of guilt for a felony offense by an 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, sexual violations, an offense involving domestic violence or violation of a domestic violence retraining 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 violation of law or rule of the board.

History: Effective October 1, 2004; amended effective April 1, 2014; April 1, 2022.
General Authority: NDCC 12-63-02.3(5), 12-63-04(2)(f)
Law Implemented: NDCC 12-63-02.3, 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 officer or agency.

History: Effective October 1, 2004; amended effective April 1, 2014; April 1, 2022.
General Authority: NDCC 12-63-02.3(5), 12-63-04(2)(f)
Law Implemented: NDCC 12-63-02.3, 12-63-04

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

This article establishes minimum standards and requirements for 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; amended effective April 1, 2022.
General Authority: NDCC 12-63-02.3(5), 12-63-04(2)(f)
Law Implemented: NDCC 12-63-02.3, 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)(f)
Law Implemented: NDCC 12-63-04, 12-63-12