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Regulatory
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Final Regulation Agency Background Document

Agency name	Department of Criminal Justice Services
Virginia Administrative Code (VAC) citation	6VAC20-80 et seq.
Regulation title	Rules Relating to Certification of Criminal Justice Instructors
Action title	Instructor Certification Rules
Date this document prepared	10/01/07

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.

The amended regulation updates terms used in the regulation, and describes the following: the process for obtaining provisional instructor status, the requirements for recertification, the criteria for instructor apprenticeships, the process for submitting instructor applications, the process for instructor recertification, and the process for suspension or recertification.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

The Criminal Justice Services Board approved the amended regulation on September 13, 2007.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter numbers, if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

- (1) Relevant Law: § 9.1-10(5) Code of Virginia
- (2) Promulgating entity: Criminal Justice Services Board
- (3) The board has the authority to establish training standards as necessary

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

These rules were last amended in 1992. Over the years it was discovered that some of the standards do not necessarily enhance the ability of instructors to conduct training. The purpose of these changes is to enhance the effectiveness of criminal justice instructors. Additionally, certain requirements were found to be a detriment to those implementing the rules.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.

The current re-certification requirements do very little to enhance instructor capability. An approach allowing certified training academies to formulate their own program for re-certification of instructors is believed to be more effective. This program will be subject to scrutiny during academy re-certification. It will allow the certified academy to determine and address its particular needs.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

If there are no disadvantages to the public or the Commonwealth, please indicate.

- 1) An indirect advantage to the public may be increase effectiveness of criminal justice instructors, there by increasing the effectiveness of criminal justice training.
- 2) The primary advantage to the certified training academies is the ability to tailor re-certification training to the specific needs of their instructors.
- 3) None

There are no disadvantages to the public or the Commonwealth.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar’s office, please put an asterisk next to any substantive changes.

Section number	Requirement at proposed stage	What has changed	Rationale for change
20-80-10	Definition of “apprenticeship” included evaluation by a certified instructor during mandated instruction only	Definition of apprenticeship now includes the option of evaluation during mandated instruction or another course approved by the academy director.	Expanded due to insufficient opportunities to meet the requirement in the current and proposed rules.
20-80-20 A.	Provisional Instructor Certification was removed.	Provisional Instructor Certification was placed back into the regulation.	Public comment indicated that the constituency wanted this to remain a requirement.
20-80-20 B.	With the removal of provisional instructor certification, the general instructor certification became A.	With the addition of provisional instructor certification back into the regulation, the general instructor certification became B again.	Technical requirement.
20-80-20 C, D, E	The letters for each of these sections of the regulation changed with the removal of provisional instructor certification.	With the addition of provisional instructor certification, the letters for each of these sections of the regulation returned to C, D, and E.	Technical requirements.
20-80-20 F	With the removal of provisional instructor certification, the letter became E.	With the addition of provisional instructor certification back into the regulation, the general instructor certification section became letter F again.	Technical requirement.
20-80-20 F.6	No statement regarding applicability noted.	A statement regarding to whom the provision applies was added.	Added per request of constituency during public comment.
20-80-20 F 7, 8, 9	Numbers were different at proposed stage.	Numbers changed with addition of applicability date.	Technical requirements.
20-80-20 F 10.	No requirement noted in proposed stage.	Requirement relating to end of certification when instructor is no	Added per request of constituency during public

		longer employed by an agency that comes under the purview of the department added.	comment.
20-80-40 A. 3.	Hours of presentation noted as eight for any specialty or skill area except for speed measurement which were noted as four hours.	Hours of presentation changed to four for any specialty or skill area and two for speed measurement.	Changed per request of academy directors during public comment.
20-80-50 6.	Subject matter expert instructors restricted to two years after being hired by an agency coming under the purview of the department.	Removed the two year restriction.	Changed per request of academy directors during public comment.

Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

Commenter	Comment	Agency response
Mr. Vince Ferrara, President, Virginia Association of Directors of Criminal Justice Training	6VAC20-80-10 "Apprenticeship" It is recommended that the instructor applicant can be evaluated by a certified instructor during mandated instruction (as outlined in the proposed rules) or other course approved by the Academy Director.	The purpose of the apprenticeship is to ensure that the potential instructor has the ability to successfully train criminal justice officers in an academy setting where approved lesson plans are used and all other requirements of certified academies are met. However, it has been indicated that it is a hardship for the academies to find enough courses for the individual to perform the apprenticeship.
Major Tyrone Morrow, Director, Fairfax Criminal Justice Academy	6VAC20-80-10 "Apprenticeship" It is recommended that the instructor applicant can be evaluated by a certified instructor during mandated instruction (as outlined in the proposed rules) or other course approved by the Academy Director.	See above
Chief A. L. Gaskins, Chief, Roanoke Police Department	6VAC20-80-10 "Apprenticeship" It is recommended that the instructor applicant can be evaluated by a certified instructor during mandated instruction (as outlined in the proposed rules) or other course approved by the Academy Director.	See above
Mr. Tim Kindrick, Director, Central	6 VAC 20-80-20 B4, C4, D4, E4 Currently reads "Requires the	The agency takes no position. There are many specialty instructors that are not certified as

<p>Shenandoah Academy</p>	<p>applicant to have attended and successfully completed an instructor development course which meets or exceeds the standards of the instructor development course enumerated in 6 VAC 20-80-30.”</p> <p>Recommendation: Change to read, “Requires the applicant to be a certified General Instructor.”</p> <p>The requirement to attend the instructor development course as well as the apprenticeship requirement for each of the specialties in essence fulfills all requirements for General Instructorship as well as the specialty for which the certification is being applied for</p>	<p>general instructors. If this requirement were changed, these instructors would have to become certified as general instructors in order to continue providing the training they are already providing.</p>
<p>Mr. Tim Kindrick, Director, Central Shenandoah Academy</p>	<p>6 VAC 20-80-20 A6, B8, C7, D7, E7 Currently reads “Requires the applicant to serve an apprenticeship, as specified in 6 VAC 20-80-40, with a certified instructor until the applicant can demonstrate the ability to successfully instruct without supervision. The certified instructor shall document this successful completion of apprenticeship. This documentation shall be maintained at the appropriate certified academy; and”</p> <p>Recommendation: Change to read, “Requires the applicant to serve an apprenticeship, as specified in 6 VAC 20-80-40.”</p> <p>Reason: 6 VAC 20-80-40 spells out the requirements by hours. There is an hourly requirement listed in 6 VAC 20-80-40 but not in the requirement above and leads to confusion.</p>	<p>The agency takes no position on this recommendation.</p>
<p>Colonel W. S. Flaherty, Superintendent, Department of State Police</p>	<p>6 VAC 20-80-20 E In the proposed section “E.”, “Speed Measurement instructor certification” on page 4. While changing terminology from “Radar” to “Speed Enforcement” more accurately reflects all of today’s technological advances, i.e.,</p>	<p>The intent of this requirement is to apply only to radar and lidar instructors. The agency proposes to make the changes recommended</p>

	VASCAR and LASER, ambiguity may lead one to believe that in order to instruct VASCAR, for instance, they must be DCJS certified. If this is indeed the intention of your agency, the language in points #3, 5, and 8 should be changed to indicate that.	
Major Tyrone Morrow, Director, Fairfax Criminal Justice Academy	6 VAC 20-80-20 I agree with the proposal that apprenticeship documentation will be retained at the academy and not sent to DCJS.	No position
Major Tyrone Morrow, Director, Fairfax Criminal Justice Academy	6 VAC 20-80-30 I agree with the proposed change that will allow instructor re-certification training requirements to be reduced from 6 hours to 2 hours for General Instructor and all specialty instructors (Firearms, Driver Training, DT and Radar.	No position
Mr. Tim Kendrick, Director, Central Shenandoah Academy	6 VAC 20-80-40 A 3 Currently reads "Consist of Instructional presentation which shall total no less than four hours in duration for general instructor and no less than eight hours in any specialty or skill area except for speed measurement which shall consist of four hours. For specialty or skill area the individual must demonstrate proficiency in both classroom and skills presentation." Recommendation: Change to read, "Consist of instructional presentation which shall total no less than two hours in duration for general instructor and an additional two hours for each specialty or skill area. The additional hours for specialty or skills area must demonstrate proficiency in skills presentation." Reason: If the requirement is for an individual to be General Instructor certified than they have already demonstrated their proficiency in the classroom. Four hours is to long as a minimum requirement. For the blocks requiring specialty or skills training	The instructor rules committee recommended that specialty instructor apprenticeships should be a minimum of 8 hours due to the high liability attached to these topics. However this is a policy decision for the Committee on Training.

	<p>there are limited hours of instruction for candidates to perform apprenticeship requirements.</p>	
<p>Mr. Tim Kendrick, Director, Central Shenandoah Academy</p>	<p>Currently reads “The certified instructor shall document the successful completion of the apprenticeship in a manner prescribed by the certified academy that is conducting the apprenticeship.”</p> <p>Recommendation: Add “This documentation shall be maintained at the appropriate certified academy.”</p>	<p>The agency agrees with this recommendation.</p>
<p>Mr. Tim Kendrick, Director, Central Shenandoah Academy</p>	<p>6 VAC 20-80-40 A 3 Currently reads “Consist of Instructional presentation which shall total no less than four hours in duration for general instructor and no less than eight hours in any specialty or skill area except for speed measurement which shall consist of four hours. For specialty or skill area the individual must demonstrate proficiency in both classroom and skills presentation.”</p> <p>Recommendation: Change to read, “Consist of instructional presentation which shall total no less than two hours in duration for general instructor and an additional two hours for each specialty or skill area. The additional hours for specialty or skills area must demonstrate proficiency in skills presentation.”</p> <p>Reason: If the requirement is for an individual to be General Instructor certified than they have already demonstrated their proficiency in the classroom.</p> <p>Four hours is to long as a minimum requirement. For the blocks requiring specialty or skills training there are limited hours of instruction for candidates to perform apprenticeship requirements.</p>	<p>The instructor rules committee recommended that specialty instructor apprenticeships should be a minimum of 8 hours due to the high liability attached to these topics. However this is a policy decision for the Committee on Training.</p>
<p>Mr. Tim Kendrick, Director, Central Shenandoah</p>	<p>6 VAC 20-80-40 B Currently reads “The certified instructor shall document the successful completion of the</p>	<p>The agency agrees with this recommendation.</p>

<p>Academy</p>	<p>apprenticeship in a manner prescribed by the certified academy that is conducting the apprenticeship.”</p> <p>Recommendation: Add “This documentation shall be maintained at the appropriate certified academy.”</p>	
<p>Major Tyrone Morrow, Director, Fairfax Criminal Justice Academy</p>	<p>6 VAC 20-80-40 A 3 I agree with the proposed change that instructor apprenticeships would consist of 4 hours of presentation for General and Radar Instructors. It would consist of 16 hours for Firearms, Driver Training and DT candidates.</p>	<p>Policy decision of the Committee on Training</p>
<p>Colonel W. S. Flaherty, Superintendent, Department of State Police</p>	<p>6 VAC 20-80-50 On page 7, proposed section 6, it is respectfully requested that subject matter experts currently being utilized as such be permitted to remain in that capacity and “grandfathered.” The proposed language would read “individuals, hired after January 1, 2007, who have conducted training as a subject matter expert may continue to conduct training in their area of expertise only for two years after being hired by an agency designated by the Code of Virginia as coming under the purview of the department.”</p>	<p>See above</p>
<p>Major Tyrone Morrow, Director, Fairfax Criminal Justice Academy</p>	<p>6VAC20-80-50 I disagree with the proposed elimination of the exemption from instructor training for persons who instruct less than 3 hours. The elimination of the category of “Provisional Instructor” can be problematic for some of the courses taught by specialists.</p>	<p>This is a rarely used provision and is a policy question to be decided by the Committee on Training. It has little impact.</p>
<p>Mr. Tim Kindrick, Director, Central Shenandoah Academy</p>	<p>6 VAC 20-80-50 2 Exemptions to certification requirements.</p> <p>Currently reads “Individuals who possess professional or proficiency skills directly related to the subject matter in which they are instructing. This may include but not be limited to members of the bar, medical profession, public administrators,</p>	<p>The agency agrees with this recommendation.</p>

	<p>teachers, social service practitioners, etc. Documentation of skills may be request and final approval, if necessary rest with the department.”</p> <p>Recommendation: Change to read, “Individuals who possess professional or proficiency skills directly related to the subject matter in which they are instructing. This may include but not be limited to members of the bar, medical profession, public administrators, teachers, social service practitioners, etc.”</p> <p>Reason: Documentation of skills may be requested and final approval, if necessary rest with the department is an open ended requirement. On many occasions we request instructors through professional organizations (CWA, AHA, Fire Department). The exact instructor is not identified until the day of training. This requirement is unable to be filled until after the fact at best.</p>	
<p>Mr. Tim Kindrick, Director, Central Shenandoah Academy</p>	<p>6 VAC 20-80-50 3. Currently reads “Subdivision 3 of 6 VAC 20-80-50 may apply to employees of criminal justice agencies of this Commonwealth and its political subdivision.”</p> <p>Recommendation: Delete</p> <p>Reason: There should be no difference between a professional who is or is not an employee of criminal justice agencies as long as their certification is current.</p>	<p>The agency agrees with this recommendation.</p>
<p>Mr. Tim Kindrick</p>	<p>6 VAC 20-80-50 6 Currently reads “Individuals who have conducted training as a subject matter expert may continue to conduct training in their area of expertise only for two years after being hired by an agency designated by the Code of Virginia as coming under the purview of the department.”</p> <p>Recommendation: “Delete” or</p>	<p>Agree with proposed change. The altering factor is the need for instructors who can teach other languages but do not have the needed two years experience. It potentially adds diversity to the instructor ranks.</p>

	<p>Change to read, "Individuals hired by an agency designated by the Code of Virginia as coming under the purview of the department may continue to conduct training as a subject matter expert only if the certification in that area is current and up to date."</p> <p>Reason: There should be no difference between a professional who is or is not under the purview of the department if their certification is current.</p>	
Major Tyrone Morrow, Director, Fairfax Criminal Justice Academy	<p>6 VAC 20-80-50 I agree with the proposal that certified instructors no longer have to teach more than 3 hours. Classes can be less than 3 hours.</p>	This does not preclude certified officers from teaching in classes that are three (3) hours or less. It requires certification for classes three (3) hours or longer.
Mr. Tim Kindrick, Director, Central Shenandoah Academy	<p>6 VAC 20-80-60 Currently reads ".....The application shall conform to the format and requirements specified by the department"</p> <p>Recommendation: Write out the requirements</p> <p>Reason: Without knowing what the requirements are I have no way of complying with them</p>	The application is merely a format that includes the requirements stated in the rules. We prefer to have to have the ability to change the format as necessary without going through the administrative process act as long as the content of the requirements is not changed.
Major Tyrone Morrow, Director, Fairfax Criminal Justice Academy	<p>6 VAC 20-80-60 A I agree with the proposal that Instructor Certification applications shall conform to format and requirements of DCJS</p>	N/A
Mr. Tim Kindrick, Director, Central Shenandoah Academy	<p>6 VAC 20-80-70 Recommendation: Add: A minimum requirement for providing instruction of mandated or approved training during the period of instruction.</p> <p>Reason: General Instructorship is directly tied to numerous departments pay increases therefore many students attend the class purely to receive the pay increase. By placing a minimum requirement it ensuring that proficiency is being maintained</p>	The agency takes no position on this recommendation. The current rules require an instructor to conduct a minimum of 8 hours of mandated training during the current recertification period. Instructors that do not complete this requirement are considered agency instructors and are not allowed to teach in academies. It appears that many instructors do not understand this distinction and there is great confusion about this requirement. It is also very difficult to track the which instructors are agency instructors and which are academy instructors. In addition, there is no need for agency instructors since agencies are prohibited from conducting mandated training. One of the main reasons the concept of agency instructor was initiated was because many agencies use instructor certification status for

		promotion purposes and many do not conduct training in an academy.
Mr. Vince Ferrara, President, Virginia Association of Directors of Criminal Justice Training	6VAC 20-80-80 It is recommended that the word shall be substituted for the word may in the sentence under section A.	The agency takes no position on this recommendation.
Major Tyrone Morrow, Director, Fairfax Criminal Justice Academy	6VAC 20-80-80 The word "may" should be sufficient pending a proper investigation into an incident of question.	The agency takes no position on this recommendation.
Chief A. L. Gaskins, Chief, Roanoke Police Department	6VAC 20-80-80 The word "may" should be sufficient pending a proper investigation into an incident of question.	The agency takes no position on this recommendation.
Major Tyrone Morrow, Director, Fairfax Criminal Justice Academy	6 VAC 20-80 I agree with the proposed change that would allow an instructor to receive in-service credit for training he or she prepares and delivers up to maximum of 16 hours in a two year span.	This was recommended and agreed to in the formation of the rules by DCJS.
Mr. Richard L. Schumaker, Director, Cardinal Criminal Justice Academy	I wish to inform you that I support the positions of the Virginia Association of Directors of Criminal Justice Training concerning the proposed regulatory changes	
Mr. Tim Kindrick, Director, Central Shenandoah Academy	Recommendation: Some consideration be made for Officers who retire and wish to continue instructing to maintain the certification. Currently as the regulation reads the certification becomes null and void. Reason: There are a good number of retired officers and/or officers close to retirement who wish to continue instructing at the academy. Since the academies are dependant on volunteer instructor this is taking out a large pool of Subject Matter Experts who want to instruct	The concept of instructor certification is that the certification does not attach to the individual but the department for which that individual works. Retired officers may be considered as subject matter experts.

All changes made in this regulatory action

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
20-80-10		Defines the terms used in these rules	Update definitions in order to clarify how process should work
20-80-20		Describes the process for obtaining provisional and general instructor status	Adds requirements for sworn and non-sworn instructors and ending of certification when no longer employed by and agency coming under the purview of the department.
20-80-30, B.		Defines requirements for instructor re-certification	Allows the academy director to determine the criteria for instructor re-certification training.
20-80-40		Describes the criteria for instructor apprenticeships	Identifies the requirements for instructor apprenticeships in critical, high liability topic areas.
20-80-60		Describes the process for submitting instructor applications	Simplifies the process of submitting instructor applications.
20-80-70		Describes application process for instructor re-certification	Eliminates the need to submit instructor applications for re-certification due to the ability to accomplish this electronically.
20-80-80		Describes process for suspension or revocation	Clarifies the difference between instructor revocation and an instructor's status when no longer employed.

Regulatory flexibility analysis

Please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

Consideration was given to exploring possible deregulation of certain issues in this area. However, this was not recommended nor condoned by the Advisory Committee. The Committee chose to recommend an individual academy approach to determine if or what methods may be appropriate for statewide use at a later time.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The impact on the family is indirect. Quality instruction in any area of criminal justice training is desired and requiring instructors to meet minimum requirements for re-certification in order to deliver quality training is the goal. Good instructors tend to produce better-trained officers who may have an impact on a family.