

Administrative Procedures – Final Proposed Rule Filing

Instructions:

In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the “Rule on Rulemaking” adopted by the Office of the Secretary of State, this filing will be considered complete upon filing and acceptance of these forms with the Office of the Secretary of State, and the Legislative Committee on Administrative Rules.

All forms requiring a signature shall be original signatures of the appropriate adopting authority or authorized person, and all filings are to be submitted at the Office of the Secretary of State, no later than 3:30 pm on the last scheduled day of the work week.

The data provided in text areas of these forms will be used to generate a notice of rulemaking in the portal of “Proposed Rule Postings” online, and the newspapers of record if the rule is marked for publication. Publication of notices will be charged back to the promulgating agency.

PLEASE REMOVE ANY COVERSHEET OR FORM NOT REQUIRED WITH THE CURRENT FILING BEFORE DELIVERY!

Certification Statement: As the adopting Authority of this rule (see 3 V.S.A. § 801 (b) (11) for a definition), I approve the contents of this filing entitled:

Administrative Rules for Private Investigators and Security Guards

_____/s/ James Condos_____, on 08/26/2021
 (signature) (date)

Printed Name and Title:
 James Condos, Secretary of State

RECEIVED BY: _____

- Coversheet
- Adopting Page
- Economic Impact Analysis
- Environmental Impact Analysis
- Strategy for Maximizing Public Input
- Scientific Information Statement (if applicable)
- Incorporated by Reference Statement (if applicable)
- Clean text of the rule (Amended text without annotation)
- Annotated text (Clearly marking changes from previous rule)
- ICAR Minutes
- Copy of Comments
- Responsiveness Summary

Final Proposed Coversheet

1. TITLE OF RULE FILING:

Administrative Rules for Private Investigators and Security Guards

2. PROPOSED NUMBER ASSIGNED BY THE SECRETARY OF STATE

21P-015

3. ADOPTING AGENCY:

Secretary of State, Office of Professional Regulation

4. PRIMARY CONTACT PERSON:

(A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE).

Name: Gabriel Gilman

Agency: Secretary of State, Office of Professional Regulation

Mailing Address: 89 Main St, 3rd Floor, Montpelier, VT 05620-3402

Telephone: 802 828 - 2492 Fax: -

E-Mail: gabriel.gilman@vermont.gov

Web URL *(WHERE THE RULE WILL BE POSTED)*:

<https://sos.vermont.gov/private-investigative-security-services/statutes-rules-resources/>

5. SECONDARY CONTACT PERSON:

(A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON).

Name: Jennifer Rotblatt

Agency: Secretary of State, Office of Professional Regulation

Mailing Address: 89 Main St, 3rd Floor, Montpelier, VT 05620-3402

Telephone: 802 828 - 2191 Fax: -

E-Mail: jennifer.rotblatt@vermont.gov

6. RECORDS EXEMPTION INCLUDED WITHIN RULE:

(DOES THE RULE CONTAIN ANY PROVISION DESIGNATING INFORMATION AS CONFIDENTIAL; LIMITING ITS PUBLIC RELEASE; OR OTHERWISE EXEMPTING IT FROM INSPECTION AND COPYING?) No

IF YES, CITE THE STATUTORY AUTHORITY FOR THE EXEMPTION:

PLEASE SUMMARIZE THE REASON FOR THE EXEMPTION:

7. LEGAL AUTHORITY / ENABLING LEGISLATION:

(THE SPECIFIC STATUTORY OR LEGAL CITATION FROM SESSION LAW INDICATING WHO THE ADOPTING ENTITY IS AND THUS WHO THE SIGNATORY SHOULD BE. THIS SHOULD BE A SPECIFIC CITATION NOT A CHAPTER CITATION).

26 V.S.A. § 3162 (granting rulemaking authority to the Director)

3 V.S.A. § 801(11) (making the Secretary of State the adopting authority for the Office of Professional Regulation)

8. EXPLANATION OF HOW THE RULE IS WITHIN THE AUTHORITY OF THE AGENCY:

These rules execute the responsibility of the Director of Professional Regulation, pursuant to 26 V.S.A. § 3162, to establish licensing rules, qualifications, and standards relative to the practice of the private investigative and security professions.

9. THE FILING HAS CHANGED SINCE THE FILING OF THE PROPOSED RULE.

10. THE AGENCY HAS INCLUDED WITH THIS FILING A LETTER EXPLAINING IN DETAIL WHAT CHANGES WERE MADE, CITING CHAPTER AND SECTION WHERE APPLICABLE.

11. SUBSTANTIAL ARGUMENTS AND CONSIDERATIONS WERE RAISED FOR OR AGAINST THE ORIGINAL PROPOSAL.

12. THE AGENCY HAS INCLUDED COPIES OF ALL WRITTEN SUBMISSIONS AND SYNOPSES OF ORAL COMMENTS RECEIVED.

13. THE AGENCY HAS INCLUDED A LETTER EXPLAINING IN DETAIL THE REASONS FOR THE AGENCY'S DECISION TO REJECT OR ADOPT THEM.

14. CONCISE SUMMARY (**150 WORDS OR LESS**):

This rule modernizes the regulation of private investigators, providers of private security, and agencies. The rule will complete efforts undertaken by the Office of Professional Regulation, with grant support from the United States Department of Labor, to simplify regulation, eliminate redundant licensure, and align regulation with real-world practice. First, Act

Final Proposed Coversheet

144 (2018), § 24 facilitated a simplified licensing structure, with two tiers of individual licensure for private investigators and security personnel. Second, Act 178 (2020), eliminated the Board of Private Investigative and Security Services, effective October 1, 2020, and established a more efficient, advisor-based regulatory model. The Rule replaces an unwieldy system of temporary and provisional licensure with a realistic, eight-hour requirement for pre-employment training of new employees; eliminates licensure of "designated agents" for already-licensed agencies; and allows independent practitioners to operate under a single license.

15. EXPLANATION OF WHY THE RULE IS NECESSARY:

The regulatory system governing the professions in question was seen to be antiquated and unduly complex. Act 144 (2018) simplified licensure. Act 178 (2020) established advisor-based regulation. Administrative rules should reflect and implement the intent behind those statutory changes.

16. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY:

The Rule has been developed in multiple open meetings with input from all regulated persons and interested parties who wished to participate. OPR licensing and legal staff listened carefully to the considered opinions of participants as to how the State could simplify licensure while ensuring regulation serves to protect the public health, safety, and welfare in a manner consistent with State licensing policy set out at 26 V.S.A., Ch. 57. The Rule achieves this by simplifying requirements and eliminating redundant license types.

17. LIST OF PEOPLE, ENTERPRISES AND GOVERNMENT ENTITIES AFFECTED BY THIS RULE:

Private security agencies; private investigators; security officers; security agencies; private investigative agencies; hospitals; courts; public shopping venues; concert venues; colleges and universities; insurers; and other employers of private investigators.

18. BRIEF SUMMARY OF ECONOMIC IMPACT (150 WORDS OR LESS):

By eliminating redundant licensing requirements and aligning training requirements with labor-market conditions, this Rule will reduce regulatory burdens on private investigative and security agencies, and it will make it less burdensome for independent private investigators to serve clients. For example, a private investigator may operate under one license, rather than being licensed individually, as a "qualifying agent" and as a firm. By articulating realistic but concrete training requirements, the Rule makes it possible to ensure appropriate minimum training of security personnel without a system of temporary and provisional licensing that added complication and expense at seasonal peaks.

19. A HEARING WAS HELD.

20. HEARING INFORMATION

(THE FIRST HEARING SHALL BE NO SOONER THAN 30 DAYS FOLLOWING THE POSTING OF NOTICES ONLINE).

IF THIS FORM IS INSUFFICIENT TO LIST THE INFORMATION FOR EACH HEARING PLEASE ATTACH A SEPARATE SHEET TO COMPLETE THE HEARING INFORMATION.

Date: 6/25/2021

Time: 10:00 AM

Street Address: Remote Meeting (see attached information)

Zip Code:

Date:

Time: AM

Street Address:

Zip Code:

Date:

Time: AM

Street Address:

Zip Code:

Date:

Time: AM

Street Address:

Final Proposed Coversheet

Zip Code:

21. DEADLINE FOR COMMENT (NO EARLIER THAN 7 DAYS FOLLOWING LAST HEARING):

7/5/2021

KEYWORDS (PLEASE PROVIDE AT LEAST 3 KEYWORDS OR PHRASES TO AID IN THE SEARCHABILITY OF THE RULE NOTICE ONLINE).

private investigators, security services, security guards, investigation



State of Vermont
Office of the Secretary of State

Office of Professional Regulation
89 Main Street, 3rd Floor
Montpelier, VT 05620-3402
sos.vermont.gov

James C. Condos, Secretary of State
Christopher D. Winters, Deputy Secretary
S. Lauren Hibbert, Director

August 25, 2021

Sen. Mark MacDonald, Chair
Legislative Committee on Administrative Rules
c/o Charlene Dindo, Committee Assistant
Vermont State House
Montpelier, Vermont 05602

Re: Final Proposed Rule: Administrative Rules for Private Investigators & Security Guards [21P-015]

Dear Chairperson MacDonald and Members:

Please find enclosed the final proposed rule titled *Administrative Rules for Private Investigators & Security Guards*. These materials have been filed in parallel with the Secretary of State today.

Accompanying this letter are:

- A. APA filing forms;
- B. the final proposed rule;
- C. the stricken rule
- D. written comments received;
- E. a summary of substantial arguments, agency responses, and changes to the proposed rule; and
- F. the ICAR minutes from April 12, 2021 showing approval.

I would be happy to answer any questions the Committee may have about the proposed rule in advance of your next meeting. Please feel free to contact me at 802-828-2492 or via email at gabriel.gilman@vermont.gov.

Sincerely,

Gabriel M. Gilman
General Counsel

cc: Louise F. Corliss, APA Rules, Vermont Secretary of State (original documents)

Administrative Procedures – Adopting Page

Instructions:

This form must accompany each filing made during the rulemaking process:

Note: To satisfy the requirement for an annotated text, an agency must submit the entire rule in annotated form with proposed and final proposed filings. Filing an annotated paragraph or page of a larger rule is not sufficient. Annotation must clearly show the changes to the rule.

When possible, the agency shall file the annotated text, using the appropriate page or pages from the Code of Vermont Rules as a basis for the annotated version. New rules need not be accompanied by an annotated text.

1. TITLE OF RULE FILING:

Administrative Rules for Private Investigators and Security Guards

2. ADOPTING AGENCY:

Secretary of State, Office of Professional Regulation

3. TYPE OF FILING (*PLEASE CHOOSE THE TYPE OF FILING FROM THE DROPDOWN MENU BASED ON THE DEFINITIONS PROVIDED BELOW*):

- **AMENDMENT** - Any change to an already existing rule, even if it is a complete rewrite of the rule, it is considered an amendment as long as the rule is replaced with other text.
- **NEW RULE** - A rule that did not previously exist even under a different name.
- **REPEAL** - The removal of a rule in its entirety, without replacing it with other text.

This filing is **AN AMENDMENT OF AN EXISTING RULE** .

4. LAST ADOPTED (*PLEASE PROVIDE THE SOS LOG#, TITLE AND EFFECTIVE DATE OF THE LAST ADOPTION FOR THE EXISTING RULE*):

Rule Log #15-007; Administrative Rules for the Board of Private Investigative and Security Services; April 1, 2015

INTERAGENCY COMMITTEE ON ADMINISTRATIVE RULES (ICAR) MINUTES

Meeting Date/Location: April 12, 2021, Microsoft Teams Virtual Meeting
Members Present: Chair Kristin Clouser, Dirk Anderson, Diane Bothfeld, Jennifer Mojo, John Kessler, Matt Langham, Diane Sherman and Clare O'Shaughnessy
Members Absent: Ashley Berliner
Minutes By: Melissa Mazza-Paquette

- 2:00 p.m. meeting called to order, welcome and introductions.
- Review and approval of minutes from the March 8, 2021 meeting.
- Agenda was amended to remove the 'Biomass Renewable Energy Standard, Agency of Natural Resources, Department of Forests, Parks and Recreation' proposed rule. Agenda approved as drafted with noted change.
- Three Emergency Rules were supported by ICAR Chair Clouser:
 - On March 11, 2021, "Emergency Administrative Rule for Notaries Public and Remote Notarization" filed by the Office of Professional Regulation. This rule will renew the existing temporary emergency rule, which allows for remote notarization, through September 15, 2021.
 - On March 15, 2021, 'Hospital Licensing Rule' by the Agency of Human Services, Department of Health, which, during the state of emergency, allows hospitals that are otherwise licensed and approved by CMS to go through an approval process in Vermont without having to go through all the steps.
 - On April 2, 2021, 'Rule on Rulemaking', by the Office of the Secretary of State, which allows for the electronic filling of the APA required forms for rules for the next six months.
 - Question whether an emergency rule was necessary as they already have statutory authority.
- Member Kessler will reach out to the Office of the Secretary of State to share comments on the Proposed Rule Coversheet and Economic Impact Analysis for the potential benefit of clarifying the information being sought.
- No public comments made.
- Presentation of Proposed Rules on pages 2-3 to follow.
 1. Administrative Rules for Private Investigators and Security Guards, Secretary of State, Office of Professional Regulation, page 2.
 2. Administrative Rules for the Assessing of Professional Credentials Obtained Outside the United States, Secretary of State, Office of Professional Regulation, page 3.
- Committee discussion on the Public Input form, questions #3-5:
 - Questions would be more appropriate in the forms going to LCAR.
 - ICAR is seeking some level of specificity. Valuable information could include organizations that should be associated with topic and public engagement and outreach information.
 - Presenter can include recommendations from ICAR after the meeting.
- Next scheduled meeting is May 10, 2021 at 2:00 p.m.
- 3:08 p.m. meeting adjourned.

Proposed Rule: Administrative Rules for Private Investigators and Security Guards, Secretary of State, Office of Professional Regulation

Presented By: Gabriel Gilman

Motion made to accept the rule by Dirk Anderson, seconded by Diane Bothfeld, and passed unanimously with the following recommendations:

1. Proposed Rule Coversheet, #10: Explain how it achieves the objective.
2. Proposed Rule Coversheet, #11: Add 'Private Investigators' and 'Security Officers'.
3. Proposed Rule Coversheet, #12: Consider changing the second 'firm' to a different word.
4. Economic Impact Analysis, #6: Include more quantitative detail to support data and include impact on budget.
5. Public Input, #4: Elaborate on the strategy to reach those listed.
6. Proposed Rule, 5-2: Consider indicating what the standards are.
7. Consider including bias training for firearm applicants.
8. Proposed Rule, 9-4: Change 'Licensed Security Guard' to 'Private Investigator' if appropriate.
9. Proposed Rule, 4-2: Clarify training and change to 'eligible registered security employee' if appropriate.
10. Proposed Rule, 5-4(b)(2): 'Part 5-4(a)(4)' should be 'Part 5-4(a)(3)'.
11. Proposed Rule: Random spacing issues at the end of lines with current font in PDF (example 3-1). Consider using an alternative font.



Administrative Procedures – Economic Impact Analysis

Instructions:

In completing the economic impact analysis, an agency analyzes and evaluates the anticipated costs and benefits to be expected from adoption of the rule; estimates the costs and benefits for each category of people enterprises and government entities affected by the rule; compares alternatives to adopting the rule; and explains their analysis concluding that rulemaking is the most appropriate method of achieving the regulatory purpose.

Rules affecting or regulating schools or school districts must include cost implications to local school districts and taxpayers in the impact statement, a clear statement of associated costs, and consideration of alternatives to the rule to reduce or ameliorate costs to local school districts while still achieving the objectives of the rule (see 3 V.S.A. § 832b for details).

Rules affecting small businesses (excluding impacts incidental to the purchase and payment of goods and services by the State or an agency thereof), must include ways that a business can reduce the cost or burden of compliance or an explanation of why the agency determines that such evaluation isn't appropriate, and an evaluation of creative, innovative or flexible methods of compliance that would not significantly impair the effectiveness of the rule or increase the risk to the health, safety, or welfare of the public or those affected by the rule.

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### 1. TITLE OF RULE FILING:

**Administrative Rules for Private Investigators and Security Guards**

### 2. ADOPTING AGENCY:

Secretary of State, Office of Professional Regulation

### 3. CATEGORY OF AFFECTED PARTIES:

*LIST CATEGORIES OF PEOPLE, ENTERPRISES, AND GOVERNMENTAL ENTITIES POTENTIALLY AFFECTED BY THE ADOPTION OF THIS RULE AND THE ESTIMATED COSTS AND BENEFITS ANTICIPATED:*

Security firms; concert venues; hospitals; colleges; universities; courts.

### 4. IMPACT ON SCHOOLS:

*INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON PUBLIC EDUCATION, PUBLIC SCHOOLS, LOCAL SCHOOL DISTRICTS AND/OR TAXPAYERS CLEARLY STATING ANY ASSOCIATED COSTS:*

## Economic Impact Analysis

No economic impact on schools is expected.

### 5. ALTERNATIVES: *CONSIDERATION OF ALTERNATIVES TO THE RULE TO REDUCE OR AMELIORATE COSTS TO LOCAL SCHOOL DISTRICTS WHILE STILL ACHIEVING THE OBJECTIVE OF THE RULE.*

No economic impact on schools is expected.

### 6. IMPACT ON SMALL BUSINESSES:

*INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON SMALL BUSINESSES (EXCLUDING IMPACTS INCIDENTAL TO THE PURCHASE AND PAYMENT OF GOODS AND SERVICES BY THE STATE OR AN AGENCY THEREOF):*

By streamlining licensing requirements and reducing redundancy in licensing, this rule will tend to lower overhead to investigative and security firms. By defining "agency" as a firm that employs two or more licensees, the rule allows sole proprietors to work under one license rather than two. Empirically, 25 sole-proprietor agencies will save a collective \$6,500 in fees each biennial licensing cycle. Savings may be passed on to commercial clients of those firms. OPR expects that lost revenue will be offset by administrative efficiencies achieved in the new regulatory model.

### 7. SMALL BUSINESS COMPLIANCE: *EXPLAIN WAYS A BUSINESS CAN REDUCE THE COST/BURDEN OF COMPLIANCE OR AN EXPLANATION OF WHY THE AGENCY DETERMINES THAT SUCH EVALUATION ISN'T APPROPRIATE.*

This rule imposes no compliance costs on most businesses. The rule does govern private investigative and security firms, many of which are small businesses. Those businesses will encounter lower compliance costs because this rule simplifies the process of training and onboarding new staff.

### 8. COMPARISON:

*COMPARE THE IMPACT OF THE RULE WITH THE ECONOMIC IMPACT OF OTHER ALTERNATIVES TO THE RULE, INCLUDING NO RULE ON THE SUBJECT OR A RULE HAVING SEPARATE REQUIREMENTS FOR SMALL BUSINESS:*

Because the General Assembly has determined to regulate private investigative and security service providers pursuant to rules establishing minimum standards and qualifications, no rule is not an option consistent with statutory requirements. Small agencies participated fully in the rulemaking process, and the

## Economic Impact Analysis

rule reflects the interests and input of those small businesses.

9. **SUFFICIENCY:** *EXPLAIN THE SUFFICIENCY OF THIS ECONOMIC IMPACT ANALYSIS.*  
This rule governs the standards and qualifications for licensure as a private investigator, security guard, or firm employing those licensees. Its economic impact will be felt directly as a function of licensing fees and the costs of training staff to comply with rule requirements. We can be confident that the economic impact resulting from this rule will be very modest and favorable relative to the more complex system the rule replaces.

# Administrative Procedures – Environmental Impact Analysis

## **Instructions:**

In completing the environmental impact analysis, an agency analyzes and evaluates the anticipated environmental impacts (positive or negative) to be expected from adoption of the rule; compares alternatives to adopting the rule; explains the sufficiency of the environmental impact analysis.

Examples of Environmental Impacts include but are not limited to:

- Impacts on the emission of greenhouse gases
- Impacts on the discharge of pollutants to water
- Impacts on the arability of land
- Impacts on the climate
- Impacts on the flow of water
- Impacts on recreation
- Or other environmental impacts

### 1. TITLE OF RULE FILING:

**Administrative Rules for Private Investigators and Security Guards**

### 2. ADOPTING AGENCY:

Secretary of State, Office of Professional Regulation

### 3. GREENHOUSE GAS: *EXPLAIN HOW THE RULE IMPACTS THE EMISSION OF GREENHOUSE GASES (E.G. TRANSPORTATION OF PEOPLE OR GOODS; BUILDING INFRASTRUCTURE; LAND USE AND DEVELOPMENT, WASTE GENERATION, ETC.):*

None.

### 4. WATER: *EXPLAIN HOW THE RULE IMPACTS WATER (E.G. DISCHARGE / ELIMINATION OF POLLUTION INTO VERMONT WATERS, THE FLOW OF WATER IN THE STATE, WATER QUALITY ETC.):*

None.

### 5. LAND: *EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):*

None.

### 6. RECREATION: *EXPLAIN HOW THE RULE IMPACT RECREATION IN THE STATE:*

None.

Environmental Impact Analysis

7. *CLIMATE: EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:*

None.

8. *OTHER: EXPLAIN HOW THE RULE IMPACT OTHER ASPECTS OF VERMONT'S ENVIRONMENT:*

None.

9. *SUFFICIENCY: EXPLAIN THE SUFFICIENCY OF THIS ENVIRONMENTAL IMPACT ANALYSIS.*

These rules are not expected to impact the environment.

# Administrative Procedures – Public Input

## Instructions:

In completing the public input statement, an agency describes the strategy prescribed by ICAR to maximize public input, what it did do, or will do to comply with that plan to maximize the involvement of the public in the development of the rule.

This form must accompany each filing made during the rulemaking process:

1. TITLE OF RULE FILING:

**Administrative Rules for Private Investigators and Security Guards**

2. ADOPTING AGENCY:

Secretary of State, Office of Professional Regulation

3. PLEASE DESCRIBE THE STRATEGY PRESCRIBED BY ICAR TO MAXIMIZE PUBLIC INVOLVEMENT IN THE DEVELOPMENT OF THE PROPOSED RULE:

The agency will contact all licensees. Because all of these stakeholders can be reached at known email addresses, we are confident that all interested in development of the proposed rule will have an opportunity to become involved.

4. PLEASE LIST THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO COMPLY WITH THAT STRATEGY:

The agency will reach out directly to all persons and entities licensed under the rule to be amended, as well as to interested parties that commonly employ private investigative and security service providers. This will be accomplished by direct electronic mail to licensees, as well as communication to associations of common clients, such as universities, hospitals, insurers, bars, and concert venues.

5. BEYOND GENERAL ADVERTISEMENTS, PLEASE LIST THE PEOPLE AND ORGANIZATIONS THAT HAVE BEEN OR WILL BE INVOLVED IN THE DEVELOPMENT OF THE PROPOSED RULE:

Security firms; security guards; private investigators; colleges; universities; concert venues.



## **Gilman, Gabriel**

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**From:** William Burgess <burgesslossprevention@comcast.net>  
**Sent:** Sunday, July 4, 2021 6:06 PM  
**To:** SOS - OPR Comments  
**Subject:** Comments-Proposed Administrative Rules for Private Investigative & Security Services

**EXTERNAL SENDER: Do not open attachments or click on links unless you recognize and trust the sender.**

Thank you for the opportunity to review and comment on the **Proposed Administrative Rules for Private Investigative & Security Services on June 25, 2021.**

I want to provide a written summary of my comments at the hearing. I have also included some additional comments.

My name is William Burgess. I own Burgess Loss Prevention Associates, based in Lebanon, New Hampshire. I have been licensed as a Private Investigator in Vermont and New Hampshire for over 31 years.

My specific comments address the proposed draft:

### **Section 5 –1 Firearms**

#### **Point of Agreement:**

I agree that anyone advertising or providing armed services should be properly licensed, as required by this regulation, and obtain an appropriate “Firearms specialty designation under Section 5-3”.

#### **Points of Dis-Agreement:**

I disagree on the part of this regulation that states “...The Office construes this requirement strictly, such that, regardless of intent, the possession and control of a firearm or canine while working in any capacity as a licensee requires an active specialty designation.”

This clause, noted in the paragraph above, prohibits private investigators and security personnel from carrying firearms explicitly for the sole purpose of personal protection.

Vermont law is very clear on the right to carry. That is, anyone, except a convicted felon, including even a non-resident who is in Vermont, can carry a weapon without a permit for personal protection. This part of the proposed regulation as noted above, is in direct conflict with Vermont law. This part of the proposed regulation takes away the right of a licensee to defend themselves as permitted under Vermont law.

There are many other licensees such as pharmacists and tattoo artists that may also want to carry weapons for their own protection. No other profession, (that I am aware of) regulated by the Secretary of State's office, are prohibited from carrying firearms for personal protection. Therefore, this section is also discriminatory for our profession.

If a licensee is not advertising or performing armed work, the State does not have a right to regulate what equipment they have in their possession.

While the state has a legal right to regulate business, it an over-reach for the state to try to regulate what services a business is not advertising or performing.

**Suggestion**

I suggest adding a clause, such as that in the State of New Hampshire Private Investigator/Security Regulations, under NH Law RSA Section 106-F: 8 III.

**“Nothing in this chapter shall prohibit a licensee from possessing or carrying a firearm for his or her personal protection as otherwise provided by law.”**

During the hearing, an objection to adding the exemption clause (similar to New Hampshire’s) was made. The stated objection was that adding such an exemption clause for personal protection, makes it more difficult to regulate and negates the purpose of the armed designation.

**I disagree with this objection for the following reasons:**

1. Making something more difficult to regulate, is not a valid reason to deprive a person of their rights under Vermont law and it is not a valid reason to take away an individual's opportunity to protect themselves from serious injury or death.
2. An exemption clause for personal protection does not negate the armed specialty designation. The concept is very specific: *if you are advertising or performing armed work, a special firearms designation is needed.* NH is able to regulate this issue well, even though they have the exception permitting carrying for personal protection.

Please know that I would be pleased to work with OPR and coordinate with the New Hampshire State Police (who license private investigators and security personnel in NH) to develop more appropriate wording for this section to include an exemption for firearm carry for personal protection.

Thank you for your consideration of my comments.

Bill

William Burgess  
Burgess Loss Prevention Associates, LLC  
10 Manchester Dr  
Lebanon, NH 03766  
603-448-3869

Specializing in Loss Prevention Services & Investigations throughout New England

## Gilman, Gabriel

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**From:** rmurphy@fyigrp.com  
**Sent:** Thursday, July 1, 2021 3:39 PM  
**To:** SOS - OPR Comments  
**Subject:** Public Hearing on the Proposed Administrative Rules for Private Investigative and Security Services - Comments

**EXTERNAL SENDER: Do not open attachments or click on links unless you recognize and trust the sender.**

To whom it may concern,,

My name is Richard Murphy owner and operator of FYI Investigative Group,, LLC. I have been a licensed Private Investigator in Vermont and various states for the past 24 years.

Thank you for the time to go through the Proposed Administrative Rules for Private Investigative & Security Services on June 25, 2021. It was a productive meeting where many of our concerns were heard and addressed. I look forward to seeing those revisions.

However, one concern that was expressed in regard to Section 5-1 Firearms needs further examination. Vermont Law is very clear on the right to carry a firearm – anyone except for a convicted felon can carry a firearm without a permit for personal protection. Even a non-resident may possess/carry a firearm while visiting Vermont. Out of the 50+/- professions regulated by the Office of Professional Regulation, the only profession with restrictions on their constitutional right to possess/carry a firearm is Private Investigative & Security Services. This is discriminatory and is in direct conflict with the Vermont Constitution.

The State has a right to regulate business and protect the general public; however, Section 5-1 is an overreach as the state is trying to regulate something that a business is not advertising and/or offering as a service – armed services.

If a Private Investigator or a Security Guard is advertising and/or providing armed services to the general public as part of their business, then the State should have regulations in place where a firearm endorsement is required. If a licensed Private Investigator or Security Guard is carrying a firearm explicitly for the sole purpose of personal protection, then such endorsement ***should not*** be required.

I am recommending that the State of Vermont adopt similar language found in the State of New Hampshire Private Investigator/Security Regulations (NH Law Section 106-F: 8III):

*“III Nothing in this chapter shall prohibit a licensee from possessing or carrying a firearm for his or her personal protection as otherwise provided by law.”*

There was some concern expressed by OPR that this would be challenging to regulate. I believe there is a clear and distinct difference if someone is advertising and/or providing armed services to those that are not. This exemption does not negate the firearm specialty endorsement especially if the language regarding the endorsement is clarified to include such language as

*“if advertising and/or providing armed services to the general public as part of their business then a firearm endorsement is required.”*

I am willing to coordinate with OPR to further discuss this matter and work toward a better solution.

Richard B. Murphy  
FYI Investigative Group, LLC  
PH: 800.581.4863 ext. 3 | Mobile: 802.249.8060  
[www.fyigrp.com](http://www.fyigrp.com)

**Final Proposed Administrative Rules for Private Investigators and Security Guards:**  
**Summary of Substantial Arguments, Agency Responses, and Amendments**

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**Comment:**

A commenter observed that Rule 1-7 defined “Qualifying Agent” as a more senior licensee, but used a term—“employee”—that is used elsewhere to describe more a more junior category of licensure. This could cause confusion.

**Response:**

We agree. Rule 1-7 has been rephrased to avoid using “employee.”

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**Comment:**

Commenters criticized Rule 5-1, which specifies that any person intending to carry or use firearms or handle or use guard dogs must hold a specialty designation to do so. It was felt by these commenters that the licensing requirement intrudes upon personal rights generally associated with the Second Amendment to carry a firearm for personal protection. Commenters suggested that terminology be added, to the effect that “nothing shall prohibit a licensee from possessing or carrying a firearm for his or her personal protection except as otherwise provided by law.”

**Response:**

We disagree. No change has been made. As a constitutional matter, the Second Amendment does not prevent the states from regulating armed guards and who may be one. As drafted, Rule 5-1 limits the rights of a licensee without a firearms credential to “carry or use firearms” *only* “in connection with private investigative or security services” and “while working in any capacity as a licensee.” As a regulatory matter, an armed guard is a guard carrying a firearm. It is not possible to excuse persons from the licensing requirement on the basis of subjective intent to use firearms for personal and not professional purposes while working. Consequently, the recommended amendment would have the effect of nullifying the licensing requirement, and the State would be unable to mandate appropriate firearms training of those seeking to carry firearms while providing private security.

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**Comment:**

A commenter observed that “private detective,” which appeared twice in Rule 4-3, is both anachronistic and inconsistent with the term “private investigator.” The latter is used throughout the rule.

**Response:**

We agree. Rule 4-3(d) has been amended by substituting “investigator” for “detective.”

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**Comment:**

With respect to CPR training requirements set out in Rule 6-3, commenters agreed that the training mandate makes sense for security personnel, who often work in crowds and respond to emergencies, but they questioned the necessity of its application to private investigators. Commenters noted that private investigators are no more likely to be called to a medical emergency than a teacher, lawyer, or engineer.

**Response:**

We agree. Rule 6-3 has been amended by substituting "security personnel" for "all licensees."

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**Comment:**

Commenters felt that Rule 7-6, governing inspection by OPR, was overbroad.

**Response:**

We agree. OPR has statutory authority to issue investigative subpoenas. Consequently, little or nothing is gained by retention of the offending sentence: "Agency premises, books, and records shall be open to inspection by Office inspectors and investigators during operating hours." The sentence has been stricken. We have retained the sentence that follows, which restates a statutory obligation.

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## ~~ADMINISTRATIVE RULES FOR THE BOARD OF PRIVATE INVESTIGATIVE AND SECURITY SERVICES~~

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### ~~PART 1. GENERAL INFORMATION~~

#### ~~Section 1.1. The Board's Purpose.~~

~~The State Board of Private Investigative and Security Services ("the Board") has been created and given powers by Vermont law. Its purpose is to protect the public health, safety and welfare by setting standards, licensing only qualified and suitable applicants, and regulating their practice.~~

#### ~~Section 1.2. Business Address.~~

~~The Board's mailing address is: Office of the Secretary of State, Office of Professional Regulation ("the Office"), Board of Private Investigative and Security Services, 89 Main Street, 3rd Floor, Montpelier, VT 05620-3402. Copies of these rules and more information about the Board and its requirements and procedures are available from the Office or at the Board's web site, which can be found at [www.sec.state.vt.us/professional-regulation/professions/private-investigative-security-services](http://www.sec.state.vt.us/professional-regulation/professions/private-investigative-security-services).~~

#### ~~Section 1.3. Laws that Govern the Board.~~

~~The Board is governed by Title 26, Chapter 59 of the Vermont Statutes Annotated ("V.S.A.") which establishes its responsibilities for setting standards, issuing licenses and regulating the profession. In addition, the Board is obligated to comply with the Administrative Procedure Act ( Title 3 V.S.A. Sections 801—849 ), the Office of Professional Regulation Law ( Title 3 V.S.A. Sections 121—131 ), the Right to Know Law ( Title 1, V.S.A. Sections 310—314 ) and the Access to Public Records Law ( Title 1 V.S.A. Sections 315—320 ). These laws spell out the rights of applicants, license holders and members of the public.~~

~~The complete text of any of these laws should be available at Vermont Statutes Online ([www.leg.state.vt.us](http://www.leg.state.vt.us)).~~

These administrative rules are not intended to duplicate provisions of the Board's governing statute found at 26 V.S.A. Chapter 59. The rulemaking authority of this Board is limited to the Legislature's grant of authority found in the Board's governing statute. Please refer to the Board's governing statute for definitions, licensing requirements, standards of practice and other professional requirements not found in these rules.

## **PART 2. INFORMATION FOR APPLICANTS**

### **Section 2.1. How to Get a License.**

**(a)** As a Private Investigator, Security Guard, Combination Private Investigator and Security Guard, or Qualifying Agent:

**1.** Individual license applicants shall submit a completed application pursuant to 26 V.S.A. §§ 3173 and/or 3174. The applicant must submit documentation showing two years experience, required in § 3173(c) and/or § 3174(c). For purposes of this Rule, "two years experience" shall be defined as work experience of 2,000 hours in the applicable profession in the two year period immediately preceding the date of application.

**2.** Applicants for a combination Private Investigative and Security Guard license shall submit documentation showing two years experience, as defined in § 3173(c) and/or § 3174(c). For purposes of these Rules, "two years experience" shall be defined as work experience of 4,000 hours in the two year period immediately preceding the date of application.

**3.** Applicants shall take and pass the required examination.

**(b)** As a Private Investigative Agency, Security Guard Agency or Combination Private Investigative and Security Guard Agency:

**1.** The agency must designate a qualifying agent to be the person who shall be responsible and accountable for the employees and operation of the agency. The qualifying agent for a Private Investigative or a Security Guard agency shall hold a Vermont license in the same category of licensure.

**2.** Qualifying agents who may carry firearms and or handle or use guard dogs shall show evidence of special training as required by Rules 2.7 and 2.8.

**(c)** When the application is received, the Board shall investigate the background of the applicant, including the qualifying agent, partners and corporate officers to determine competence, character, integrity and reputation. The investigation may include, but is not limited to:

**1.** searching criminal records;

**2.** contacting personal references;

**3.** contacting other persons who know the applicant, qualifying agent, partners or corporate officers;

**4.** verifying employment and experience; and

**5.** contacting any other sources of information as might be appropriate in a particular case.

### **Section 2.2. Examination.**

The Board will give the applicable examination after the completed application has been submitted. The applicant shall take the initial examination within 60 days of the application submission. A person who fails the initial examination may be reexamined; however, the applicant shall take the examination for the second time within 60 days of the notice of failure of the initial examination. Upon failure to pass the examination for the second time, the applicant shall not reapply for one year from the notice of failure of the second examination. Information about scheduling an examination may be obtained from the Office.

### **Section 2.3. Basic Training Programs.**

**(a)** The Board requires that every security guard and private investigator employee registered under these rules complete a minimum forty (40) hour training program approved by the Board before it will issue a permanent registration.

**(b)** The basic training course and the 8 hour course for part-time employees are in addition to any hourly requirements met for firearms or guard dog training or other specialty training for a specific job or employer.

**(c)** In order to receive Board approval, the courses shall meet the following requirements:

**1.** Instructors. Basic training courses shall be taught by Board approved instructors who have at least two (2) years of experience in the subject area they are instructing or shall be licensed, certified, or able to



demonstrate expertise, to the satisfaction of the Board, in the subject area they are instructing. If licensed or certified, instructors must hold a current and unencumbered license or certification.

~~2. Subject matter. Each course shall cover the subject matter areas listed in these rules and meet the minimum hourly requirements set forth in Rules 2.4(a) and/or 2.5(a).~~

~~3. Records. Each course provider shall maintain records on training which shall be made available upon request for inspection by the Board. At a minimum, records shall identify the type of training received, students, examinations, pass/fail records and attendance.~~

~~4. Exams. Each course provider shall examine its students prior to issuing a certificate of completion. The examination shall test the student's knowledge in all of the subject areas covered. The course examination and the passing criteria shall be submitted to, and approved by, the Board.~~

~~5. Certification. Each student receives a certificate of completion upon successful completion of the training. This certificate is: signed by the instructor or course provider for the training program and by the student/licensee; presented to the student/licensee; and may be used for future applications with other employers. A copy of the certificate must be filed with the Board prior to registration.~~

~~6. Courses may be taught in-house by the agency's own licensed personnel who meet the instructor requirements set forth above, or may be taught by any other instructor whose course has been approved by the Board and who meets the requirements of these rules.~~

~~7. On the Job Training. The hourly requirements listed in Rules 2.4 and 2.5 may be satisfied in part by practical hands on training relating to a specific subject. Up to ten (10) hours of on the job training may be used to satisfy these hourly requirements, but not the 8-hour requirement for part-time temporary registrants.~~

~~8. Computer and video-based training is allowed as approved by the Board. The Board recognizes the value of live presentations and the opportunity for instructor interaction and questions.~~

~~(d) Temporary registration and on the job training:~~

~~1. A temporary registration allows an individual to practice as a security guard or private investigator pending the processing of his or her application. The temporary full-time employee registration may be issued only once for the same employer. Training must be completed before the expiration of a temporary registration (60 days) for a permanent registration to be issued.~~

~~2. All temporary registrants under 26 V.S.A. § 3176b shall be supervised. This means, for the purposes of a qualifying agent, being readily available to monitor and advise the employees and daily operation of the agency and performing the duties required of qualifying agents as set forth by the Board's statutes and these rules.~~

~~3. Nothing prevents the applicant from beginning or completing the training program prior to obtaining a temporary registration or during the temporary registration period.~~

~~4. For good cause shown, the Board may extend a temporary registration one time for up to an additional thirty (30) days.~~

~~(e) Once a course has been approved by the Board, it remains a valid and approved course unless substantive changes are made after approval. In that case, the course, including the changes, must be resubmitted to the Board for approval with a detailed cover letter explaining the changes. Changes in instructors must always be submitted to the Board for approval.~~

~~(f) Training programs submitted to the Board will be treated as trade secret information and as such will not be subject to public disclosure except to the extent that general discussions occur at public Board meetings when determining whether to approve a course.~~

**Section 2.4. Private Investigator Training Course:**

~~(a) Private investigator training courses must include the following subject areas for the minimum number of hours (in parentheses) listed here for each subject. The Board will consider requests for variances from the minimum hours for each subject. Variance requests must be supported by specific hourly variations and a written explanation as to why the variance is being requested. The total hours must still equal forty (40). See Appendix A for suggested topics to cover each of these areas:~~

~~1. Role of the private investigator (2);~~

~~2. Ethics and conduct (4);~~

~~3. Legal powers and limitations (6);~~

~~4. Communication and public relations (4);~~

~~5. Investigative tools and applications (6);~~

~~6. Observation and note taking (4);~~

~~7. Statements (4);~~

~~8. Evidence (4); and~~

~~9. Report Writing (6).~~

~~(b) The 8-hour course for part-time temporary registrants must include the following subject areas for the minimum number of hours (in parentheses) listed here for each subject:~~

~~1. Role of the private investigator (2);~~

~~2. Ethics and conduct (3); and~~

~~3. Legal powers and limitations (3).~~

~~(c) The ethics and conduct section must include the Board's statutes and rules and address the grounds for unprofessional conduct.~~

**Section 2.5. Security Guard Training Course.**

~~(a) Security guard training courses must include the following subject areas for the minimum number of hours (in parentheses) listed here for each subject. The Board will consider requests for variances from the minimum hours for each subject. Variance requests must be supported by specific hourly variations and a written explanation as to why the variance is being requested. The total hours must still equal forty (40). See Appendix A for suggested topics to cover each of these areas:~~

~~1. Role of the security guard (2);~~

~~2. Ethics and conduct (4);~~

~~3. Legal powers and limitations (4);~~

~~4. Communication and public relations (4);~~

~~5. Patrolling/investigation (4);~~

~~6. Emergency response (8);~~

~~7. Observation and note taking (4);~~

~~8. Statements (2);~~

~~9. Evidence (2);~~

~~10. Access control (2); and~~

~~11. Report Writing (4).~~

~~(b) The 8-hour course for part-time temporary registrants must include the following subject areas for the minimum number of hours (in parentheses) listed here for each subject:~~

~~1. Role of the security guard (2);~~

~~2. Ethics and conduct (3); and~~

~~3. Legal powers and limitations (3).~~

~~(c) The ethics and conduct section must include the Board's statutes and rules and address the grounds for unprofessional conduct.~~

**Section 2.6. Waiver of Course Requirements.**

~~(a) The Board may waive part or all of the training requirements if the applicant has other training or experience equivalent to the course requirements and will consider such requests on a case-by-case basis. The Board may consider:~~

~~1. completion of a course in another state with requirements substantially similar to Vermont's;~~

~~2. other relevant training (such as emergency medical technician, military or law enforcement); or~~

~~3. long-term practice and experience as a private investigator or security guard.~~

~~(b) Registrants who have successfully completed the training course once are not required to re-take the training program if they re-apply in the future.~~

~~(c) All applicants are responsible for knowledge of the Board's statutes and rules and may be required to complete training or requirements in specific areas for which they are not given credit or a waiver.~~

**Section 2.7. Firearms Training.**

~~(a) Before carrying or using firearms while performing services, a licensee or registrant shall satisfactorily complete a firearms training program approved under this section and shall possess a firearms registration issued by the Board.~~

~~(b) Firearms training programs shall be approved by the Board. Applications are available from the Office and online at [www.vtprofessionals.org](http://www.vtprofessionals.org). To be approved, a program shall include the following:~~

~~1. Instructors. Instructors shall be trained in a formal program acceptable to the Board and shall possess a current instructor's license issued by the Board.~~

~~2. Classroom instruction. Curriculum shall cover safe handling and proper use of firearms, and legal responsibility for improper or negligent use.~~

~~3. Examination. A written exam shall adequately test the classroom material.~~

~~4. Range qualification. A qualifying course of fire, either police combat or security, appropriate to the weapon, shall be used.~~

~~(c) For initial qualification, the applicant shall satisfactorily complete twelve (12) hours of classroom instruction in basic firearms safety, use, and legal responsibility, four (4) hours on safety and use of the particular weapon to be used, pass the examination, and fire a qualifying course on the range.~~

~~(d) For requalification, the applicant shall satisfactorily complete instruction in basic firearms safety, use, and legal responsibility, safety and use of the particular weapon to be used, and fire a qualifying course on the range. Requalification courses need not consist of the sixteen (16) hours for initial qualification, but shall not consist of less than six (6) hours total training.~~

~~(e) Firearms training shall occur within two years before initial application and within two years before a renewal.~~

#### ~~Section 2.8. Guard Dog Handler Training.~~

~~(a) Before handling or using guard dogs while performing services, a licensee or registrant shall satisfactorily complete a guard dog handling program approved under this section, and shall possess a permanent guard dog handler registration issued by the Board.~~

~~(b) Guard dog handler training programs shall be approved by the Board. Applications are available from the Office. To be approved, a program shall include:~~

~~1. Instructors: Instructors shall be trained in a formal program acceptable to the Board and shall possess a current instructor's license issued by the Board.~~

~~2. Classroom instruction: Curriculum shall cover safe handling and proper use of guard dogs, and legal responsibility for improper or negligent use.~~

~~3. Examination: A written exam shall adequately test the classroom material.~~

~~4. Field work: The handler and the particular dog shall work together in the field as a team.~~

~~(c) For initial qualification, the applicant shall satisfactorily complete classroom instruction in basic guard dog safety, use, and legal responsibility, pass the examination, and demonstrate proficiency in field work.~~

~~(d) For requalification, the applicant shall satisfactorily complete classroom instruction in basic guard dog safety, use, and legal responsibility, and demonstrate proficiency in field work.~~

~~(e) Guard dog training shall occur within two years before initial application and within two years before a renewal.~~

#### ~~Section 2.9. Firearms/Guard Dog Instructor Licensure.~~

~~(a) Instructors must be licensed by the Board in order for their students to receive Board approval for firearms or guard dog registration.~~

~~(b) To become licensed as an instructor, an applicant must submit the information required by 26 V.S.A. § 3175a, which includes a copy of the instructor's course he or she took to become an instructor, proof of certification as an instructor, and the course he or she intends to teach once licensed.~~

~~(c) The Board may issue continuing approval of courses for instructor licensing with which it is familiar and which have previously been approved, but reserves the right to examine each course on an individual basis.~~

~~(d) Individuals holding a current instructor license will be granted a firearms or guard dog certification, as appropriate, upon request. The Board may require proof of training for instructor requalification for renewal of firearms certifications.~~

### ~~PART 3. INFORMATION FOR LICENSEES AND REGISTRANTS~~

#### ~~Section 3.1. Renewing Licenses or Registrations.~~

~~(a) The Office has a fixed 24 month licensing schedule. Licensees or registrants renew on a fixed biennial schedule: June 1 of the odd-numbered years. A licensee or registrant shall renew by the expiration date printed on his or her license or registration. Before the license or registration expiration date, the Office will mail a renewal application and notice of renewal fee. A license or registration will expire automatically if the renewal application and fee are not returned to the Office by the expiration date.~~

~~(b) Evidence of having completed requalification in special training shall accompany the renewal application, which will not be granted if requalification has not been completed. Special training includes firearms and guard dog instructing and/or handling.~~

~~(c) An applicant issued an initial license or registration within ninety (90) days of the renewal date will not be required to renew or pay the renewal fee. The license or registration will be issued through the next full license or registration period. An applicant issued an initial license or registration more than ninety (90) days prior to the renewal expiration date will be required to renew and pay the renewal fee.~~

**Section 3.2. Information for Agencies and Qualifying Agents.**

~~(a) The qualifying agent shall notify the Office in writing within seventy two (72) hours of when a registrant's employment ends. The employee's uniform and all other pertinent forms of professional identification shall be returned to the qualifying agent. If an employee fails or refuses to surrender the employee's uniform and pertinent forms of professional identification, the qualifying agent shall notify the Office in writing within ten (10) days.~~

~~(b) Qualifying agents shall require that employees acquire and carry a temporary registration or permanent registration card. A registrant shall carry his/her permanent or temporary registration at all times while working and shall display these to any member of the Board, representative of the Office, or any law enforcement officer, upon request.~~

~~(c) A partner, corporate officer, agent or other employee of an agency shall notify the agency and the qualifying agent within forty eight (48) hours of an arrest, charge or conviction for a criminal offense. The agency or qualifying agent shall notify the Board in writing within seventy two (72) hours of the time they receive notice of an arrest, charge or conviction for a criminal offense of any partner, corporate officer, agent or other employee and give complete details.~~

**Appendix A. Board of Private Investigative & Security Services Minimum Training Requirements.**

~~(F.26 V.S.A. ' 3162 (7))~~

~~Note 1: Additional training needed for a specific speciality not addressed above, must be in addition to this basic minimum training.~~

~~Note 2: Ten of the 40 hours of training required may be in the field (on the job training).~~

~~Note 3: Proof of training is required for permanent registration and may take place during the temporary registration period.~~

~~The trainer and/or entity must:~~

~~-be approved by the board;~~

~~-have two years of experience in area of instruction or be licensed or certified (current and unencumbered) professional in the subject area they are teaching (e.g., security guard, private investigator, emergency medical technician, attorney, law enforcement officer, etc.) or be able to demonstrate expertise in the subject area they are instructing;~~

~~-be responsible for maintaining records on training (attendance, pass/fail, etc. for all students); and~~

~~-provide students with a certificate of completion (Board will require for licensure/certification).~~

~~Courses of Instruction:~~

~~-A training program approved by the Board.~~

~~-A lesson plan for each course of instruction (stating objectives).~~

~~-Up to 10 hours of instruction relating to subject matters specified may be in the field [on the job training] (e.g., patrolling or report writing).~~

~~-Verification of successful completion of course certified by instructor or authorized person at training entity (Board will require verification for licensure/certification on a form provided).~~

~~-Security guard or private investigator certificate of completion.~~

~~-Substantive changes in training course after initial approval of the course must be approved by the Board.~~

~~The forty hours of training may begin at anytime, and must be completed by the time the sixty (60) day temporary expires.~~

~~Once registrant has completed the training and received Certificate of Completion, registrant may apply approved training to another employer if applicable.~~

| SECURITY GUARD SUBJECT AREA                                                                                                                                                                                             | #OF HRS | PRIVATE INVESTIGATOR SUBJECT AREA                                                                                                                                                                                                                                                                                                                      | #OF HRS |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|
| <b>Role of Security Guard</b><br>- introduction and overview<br>- functions & responsibilities<br>- site specific tasks                                                                                                 | 2       | <b>Role of Private Investigator</b><br>- introduction and overview<br>- functions & responsibilities                                                                                                                                                                                                                                                   | 2       |
| <b>Ethics &amp; Conduct</b><br>- Board statutes and rules<br>- responsibility to clients/protecting property of clients<br>- company policy(ies)<br>- professional misconduct<br>(T.26 & T.3)                           | 4       | <b>Ethics &amp; Conduct</b><br>- Board statutes and rules<br>- responsibility to clients/confidentiality<br>- company policy(ies)<br>- professional misconduct<br>(T.26 & T.3)                                                                                                                                                                         | 4       |
| <b>Legal Powers &amp; Limitations</b><br>- use of force & self defense<br>- search & seizure<br>- restraining people<br>- common law power of arrest<br>- privacy rights<br>- eriminal & tort law<br>- detaining people | 4       | <b>Legal Powers &amp; Limitations</b><br>- access to documents<br>- The Health Insurance Portability and Accountability Act of 1996 (HIPAA)<br>- Driver's Privacy Protection Act of 1994 (DPPA)<br>- The Fair Credit Reporting Act (FCRA)<br>- common law power of arrest<br>- privacy rights<br>- surveillance & trespassing<br>- eriminal & tort law | 6       |

|                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                  |          |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|
| <p><b>Communication &amp; Public Relations</b></p> <ul style="list-style-type: none"> <li>- dealing with the public</li> <li>- listening skills &amp; body language</li> <li>- interviewing</li> <li>- persons with disabilities</li> <li>- language; cultural; sexual orientation; race, etc.</li> <li>- written, verbal, non-verbal</li> </ul> | <p><b>Communication &amp; Public Relations</b></p> <ul style="list-style-type: none"> <li>- dealing with the public</li> <li>- listening skills &amp; body language</li> <li>- interviewing</li> <li>- persons with disabilities</li> <li>- language; cultural; sexual orientation; race, etc.</li> <li>- written, verbal, non-verbal</li> </ul> | <p>4</p> |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|

| SECURITY GUARD SUBJECT AREA                                                                                                                                                                                                                                                                                                                                                                                     | #OF HRS  | #OF HRS  |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|----------|
| <p><b>Patrolling/Investigation</b></p> <ul style="list-style-type: none"> <li>- securing the scene</li> <li>- notifying client</li> <li>- responding to crimes/disturbances in progress</li> <li>- traffic control</li> </ul>                                                                                                                                                                                   | <p>4</p> | <p>6</p> |
| <p><b>Emergency Response</b></p> <ul style="list-style-type: none"> <li>- basic first aid</li> <li>- Cardiopulmonary Resuscitation(CPR)</li> <li>- fire prevention/use of extinguishers</li> <li>- bomb threats</li> <li>- terrorism</li> <li>- evacuation</li> <li>- crime in progress</li> <li>- disorderly conduct</li> </ul>                                                                                | <p>8</p> | <p>4</p> |
| <p><b>PRIVATE INVESTIGATOR SUBJECT AREA</b></p> <p><b>Investigative Tools &amp; Applications</b></p> <ul style="list-style-type: none"> <li>- photography/video</li> <li>- research - Internet, etc.</li> <li>- public records (where located)</li> <li>- photography</li> <li>- surveillance</li> </ul>                                                                                                        |          |          |
| <p><b>Observation/Note Taking</b></p> <ul style="list-style-type: none"> <li>- visual, time, weather, etc.</li> <li>- objective and subjective (objective relevant facts/subjective comments)</li> <li>- direct quotes</li> <li>- focus areas/surroundings</li> <li>- transfer of notes to formal report</li> <li>- retention of original notes</li> <li>- critical thinking (think outside the box)</li> </ul> |          |          |

|                                                                                                                                                                                                                                                                                                                                 |   |                                                                                                                                                                                                                                                                                                                                                                                 |   |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|
| <p><b>Observations/Note Taking</b></p> <ul style="list-style-type: none"> <li>- visual, time, weather, etc.</li> <li>- crime scenes (what see, what not there, what out of place, etc.)</li> <li>- objective and subjective</li> <li>- focus areas/surroundings</li> <li>- critical thinking (think outside the box)</li> </ul> | 4 | <p><b>Statements</b></p> <ul style="list-style-type: none"> <li>- written/affidavit</li> <li>- taped (audio/video)</li> <li>- statement analysis</li> <li>- use of narrative (statements) from initial interview</li> <li>- transfer of narrative notes to formal report</li> <li>- format and language used when drafting reports from narratives and/or statements</li> </ul> | 4 |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|

| <b>SECURITY GUARD SUBJECT AREA</b>                                                                                                                                                                                                                                                                                                                | <b>#OF HRS</b> | <b>PRIVATE INVESTIGATOR SUBJECT AREA</b>                                                                                                                                                | <b>#OF HRS</b> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|
| <p><b>Statements</b></p> <ul style="list-style-type: none"> <li>- written/affidavit</li> <li>- taped (audio/video)</li> <li>- use of narrative (statements) from initial interview</li> <li>- transfer of narrative notes to formal report</li> <li>- format and language used when drafting reports from narratives and/or statements</li> </ul> | 2              | <p><b>Evidence</b></p> <ul style="list-style-type: none"> <li>- what it is</li> <li>- retention</li> <li>- securing</li> <li>- chain of custody</li> <li>- witnesses</li> </ul>         | 4              |
| <p><b>Evidence</b></p> <ul style="list-style-type: none"> <li>- breaking &amp; entering</li> <li>- theft</li> <li>- crime scenes</li> </ul>                                                                                                                                                                                                       | 2              | <p><b>Report Writing</b></p> <ul style="list-style-type: none"> <li>- who, what, when, where, why and how</li> <li>- accuracy</li> <li>- entered into evidence/used in court</li> </ul> | 6              |



|                                                                                                                                                                                                                                           |   |  |  |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|--|--|
| <p><b>Access Control</b></p> <ul style="list-style-type: none"> <li>- lock &amp; key</li> <li>- fence</li> <li>- computer systems—identification badges</li> <li>- lighting, etc.</li> <li>-securing buildings, property, etc.</li> </ul> | 2 |  |  |
| <p><b>Report Writing</b></p> <ul style="list-style-type: none"> <li>- who, what, when, where, why and how</li> <li>- accuracy</li> <li>- entered into evidence/used in court</li> </ul>                                                   | 4 |  |  |

## Administrative Rules for Private Investigators and Security Guards

### Part 1: Definitions and Clarification of Terms

**1-1 “Agency”** means a business organization that employs, intends to employ, or holds itself out as employing two or more persons licensed as private investigators or security guards.

**1-2 “Director”** means the Director of Professional Regulation.

**1-3 “Employee of an agency”** means a person engaged directly by the agency and compensated through its regular, W-2 payroll. “Employee of an agency” does not mean an independent contractor, subcontractor, or employee of another corporate entity.

**1-4 “Office”** means the Office of Professional Regulation.

**1-5 “Office website”** means [sos.vermont.gov/opr/](https://sos.vermont.gov/opr/).

**1-6 “Private investigator”** is defined by 26 V.S.A. § 3151(3) and limited by specific exclusions at *id.* § 3151a(a).

**1-7 “Qualifying Agent”** means a licensed security guard or licensed private investigator who is designated by an agency to be professionally responsible for monitoring the agency’s compliance with regulatory requirements. See Rule 4- 5(a)(3).

**1-8 “Security” or “security guard”** is defined by 26 V.S.A. § 3151(4) and limited by specific exclusions at *id.* § 3151a(b).

**1-9 “Supervision”** and the verb **“to supervise”** mean having and maintaining regular and substantial familiarity with the conduct and work performance of another, and being readily available to consult telephonically or in person where necessary to address unexpected events, including questions of professional judgment.

### Part 2: Administration

**2-1 Applicable Law.** The practice of private investigation and security is defined and regulated pursuant to 26 V.S.A. § 3151 *et seq.* Copies of these and other statutes are available online at [legislature.vermont.gov/statutes/](https://legislature.vermont.gov/statutes/). The Office administers licensure in conformity with these and other Vermont laws, to include the Administrative Procedure Act, 3 V.S.A. § 800 *et seq.*; the Public Records Act, 1 V.S.A. § 315 *et seq.*; and the Laws of Professional Regulation, 3 V.S.A. § 121 *et seq.*

**2-2 Resources for Applicants and Licensees.** The Office maintains a website at [sos.vermont.gov/opr/](https://sos.vermont.gov/opr/) with information and links relevant to all licensed professionals. Information specific to security guards, private investigators, and agencies, including links to forms and online applications, is available from [sos.vermont.gov/private-investigative-security-services/](https://sos.vermont.gov/private-investigative-security-services/).

**2-3 Military Status.** Relevant education, training, and service completed as a member of the United States Armed Forces may be credited toward the requirements of licensure under these rules, and special procedures apply to expedite licensure for spouses of service members subject to a military transfer to Vermont. See the Office website for details.

|                    |
|--------------------|
| Part 3: Procedures |
|--------------------|

**3-1 Applications.** Electronic applications for licensure are available from the Office website.

(a) Incomplete applications will not be processed. Applications are complete only when all required questions have been answered fully, all attestations made, all required documentation and materials provided, and all fees paid.

(b) When the Director intends to deny a completed application, notice stating the reasons for the action shall be given to the applicant by certified mail, whereupon the applicant shall have 30 days to petition for a hearing before an administrative law officer.

(c) The Director may refuse to accept any application found to be redundant with a denied or in-process application.

**3-2 Complaints.** Complaints against licensees, applicants for licensure, or persons practicing without a license may be submitted online at [sos.vermont.gov/app/complaints-conduct-discipline/](https://sos.vermont.gov/app/complaints-conduct-discipline/).

**3-3 Contested Cases.** Procedures in contested cases relating to licensure or discipline are governed by the Office of Professional Regulation Administrative Rules of Practice, CVR 04-030-005, as those rules may from time to time be modified.

**3-4 Declaratory Rulings.** Petitions for declaratory rulings as to the applicability of any statutory provision or of any rule or order of the Office may be made pursuant to 3 V.S.A. § 808 and Office policy and procedure.

**3-5 Conflict of Standards.** Where a standard of unprofessional conduct set forth in statute conflicts with a standard set forth in rule, the standard that is most protective of the public shall govern, pursuant to 3 V.S.A. § 129a(e).

**3-6 Determination of Equivalency.** Where the Director is permitted by law or rule to accept certain training or experience on the basis of equivalence to a fixed standard, it is the burden of the applicant or licensee to establish equivalence to the Director's satisfaction, by producing credible, clear, and convincing evidence of the same. The Office has no obligation to research the bona fides of any institution, program, course, degree, certification, practicum, or fellowship and may resolve all inferences in favor of withholding a credential or approval.

**3-7 Waiver or Variance Policy.** The Office will not grant routine waivers or variances from any provisions of its rules without amending the rules. See 3 V.S.A. § 845. Where, in extraordinary circumstances, application of a rule would result in manifest unfairness, an absurd result, unjustifiable inefficiency, or an outcome otherwise inimical to the public health, safety, and welfare, the Director may, upon written request of an interested party, so find, grant a waiver with such limitations as it deems appropriate, and record the action and justification therefor in writing. This rule shall not be construed as creating any hearing right or cause of action.

**3-7 Contacting the Office.** See the Office website for contact details. Send mail to: Office of Professional Regulation, ATTN: Private Investigative and Security Services, 89 Main Street, 3rd Floor, Montpelier, VT 05620-3402.

**Part 4: Licenses and Permits**

**4-1 Licensed Security Guard.** A licensed security guard may provide security services as a sole proprietor or as the employee of an agency. Pursuant to 26 V.S.A. § 3174, eligible applicants shall:

- (a) be at least eighteen years old;
- (b) have satisfactorily completed 40 hours of approved training in private security;
- (c) have passed the examination in private security required by 26 V.S.A. § 3175;
- (d) demonstrate two or more years of experience in security work, as determined by the Director, which may include employment as a security guard licensed in another state; as a security guard for a security agency licensed in this or another state; or as a sworn member of a federal, state, or municipal law enforcement agency;
- (e) meet a high standard as to character, integrity, and reputation and otherwise demonstrate fitness to practice, the assessment of which may be informed by the results of a criminal background check, verified employment history, and references from at least two professional peers.

**4-2 Registered Security Employee.** A registered security employee may provide private security services as the employee of an agency licensed under these rules, supervised by a licensed security guard employed by the same agency.

- (a) An eligible registered security employee shall:
  - (1) be at least eighteen years old;
  - (2) have satisfactorily completed eight hours of approved training in private security; and
  - (3) meet a high standard as to character, integrity, and reputation and otherwise demonstrate fitness to practice, the assessment of which may be informed by the results of a criminal background check, employment history, and references from professional peers.
- (b) When a registered security employee is not employed and supervised by an agency, his or her license shall be active but inoperative, and he or she is not authorized to provide private security services. Violation of this requirement is cognizable as unprofessional conduct and unauthorized practice pursuant to 3 V.S.A. § 127. An inoperative license returns to operative status when the licensee is registered by a firm.

**4-3 Licensed Private Investigator.** A licensed private investigator may practice private investigation as a sole proprietor or as the registered employee of an agency. Pursuant to 26 V.S.A. § 3173, eligible applicants shall:

- (a) be at least eighteen years old;
- (b) have satisfactorily completed 40 hours of approved training in private investigation;
- (c) have passed the examination in private investigation required by 26 V.S.A. § 3175;
- (d) demonstrate two or more years of experience in investigative work, as determined by the Director, which may include employment as a private investigator licensed in another state; an investigator for a private investigator licensed in this or another state; or as a sworn member of a federal, state, or municipal law enforcement agency; and
- (e) meet a high standard as to character, integrity, and reputation and otherwise demonstrate fitness to practice, the assessment of which may be informed by the results of

a criminal background check, verified employment history, and references from at least two professional peers.

**4-4 Registered Investigative Employee.** A registered investigative employee may provide private investigative services as the employee of an agency licensed under these rules, supervised by a licensed private investigator.

- (a) An eligible investigative employee shall:
- (1) be at least eighteen years old;
  - (2) have satisfactorily completed eight hours of approved training in private investigation; and
  - (3) meet a high standard as to character, integrity, and reputation and otherwise demonstrate fitness to practice, the assessment of which may be informed by the results of a criminal background check, employment history and references from professional peers.

(b) When a registered investigative employee is not employed and supervised by an agency, his or her license is deemed active but inoperative, and he or she is not authorized to provide private investigative services. Violation of this requirement is cognizable as unprofessional conduct and unauthorized practice pursuant to 3 V.S.A. § 127. An inoperative license returns to operative status when registered by a firm.

**4-5 Agency.** An agency must be licensed prior to offering private investigative or security services to the public.

- (a) An eligible agency shall:
- (1) supply evidence of current Vermont business entity registration;
  - (2) identify those having an interest in the agency, or in the case of a publicly traded company, the company's officers and structure; and
  - (3) designate one or more full-time agency employees, each licensed in good standing as a licensed security guard or licensed private investigator, who shall be the Office's designated contact at the agency and professionally responsible for monitoring the agency's compliance with regulatory requirements.

(b) The Office may deny an agency application made by, on behalf of, or with the involvement of principals who have been disciplined for unprofessional conduct or who have a substantial connection to another agency disciplined for unprofessional conduct or unauthorized practice, or in any case where the Director finds that licensing the applicant agency would tend to undermine regulatory oversight or public accountability.

(c) An agency that employs one or more registered security employees must have on staff a licensed security guard responsible for the supervision of those registered security employees. An agency that employs one or more registered investigative employees must have on staff a licensed private investigator responsible for the supervision of those registered investigative employees.

**4-6 Out-of-State Licensee Temporarily Working in Vermont, Transitory Permit Required.**

Upon application and payment of the applicable fee, the Office may grant a transitory permit to practice as a private investigator to a person who is not a resident of Vermont and has no established place of business in this state, if that person is legally qualified by license to practice as a

private investigator in any state or country that regulates such practice. A transitory permit authorizes the reasonable continuation in this state of an investigative engagement or assignment initiated in or emanating from another. Practice under a transitory permit shall not exceed 30 days in any calendar year. A person so practicing is accountable for unprofessional conduct in like manner to a licensee. By applying for a transitory permit, an applicant agrees that the Office may accomplish service of process by transmitting first-class mail to his or her address of record.

**4-7 Firearms/Guard Dog Instructor.** Persons providing training to licensees in the use of firearms or guard dogs must be registered with the Office.

(a) The Office will not recognize firearms or guard-dog training provided by an unregistered instructor.

(b) To become registered as an instructor, an applicant must submit the information required by 26 V.S.A. § 3175a.

(c) Each course taught by a registered instructor must be approved by the Office. Course approval policies are available from the Office website.

Part 5: **Specialty Designations: Firearms, Guard Dog Handling**

**5-1 Specialty Designation Required.** No person may, in connection with private investigative or security services, carry or use firearms, nor handle or use guard dogs, unless he or she holds an appropriate license under Part 4 and an appropriate specialty designation under this Part. The Office construes this requirement strictly, such that, regardless of intent, the possession and control of a firearm or canine while working in any capacity as a licensee requires an active specialty designation. Violation of this requirement is cognizable as unprofessional conduct and unauthorized practice under 3 V.S.A. § 127.

**5-2 Special Responsibility.** Specialty designations authorize licensees to undertake activities requiring enhanced judgment and responsibility. The Office may apply a heightened standard as to character, integrity, and reputation for peaceful and responsible conduct and sound judgment, to applicants for firearms and dog-handler specialties.

**5-3 Firearms Specialty Designation.**

(a) To obtain a firearms specialty designation, a person shall:

(1) be licensed in good standing under Part 4;

(2) satisfactorily complete approved classroom instruction of at least twelve hours in safe handling and proper use of firearms, and legal responsibility for improper or negligent use;

(3) satisfactorily complete approved classroom instruction of at least four hours on safety and use of the particular weapon to be carried while working;

(4) satisfactorily complete range qualification appropriate to the weapon to be used.

(b) To renew a firearms specialty designation, a licensee shall possess a valid firearms recertification certificate recognized by the Office.

**5-4 Guard Dog Handler Specialty Designation.**

(a) To obtain a guard dog handler specialty designation, a person shall:

- (1) be licensed in good standing under Part 4;
- (2) satisfactorily complete approved classroom instruction in basic guard dog safety, use, and legal responsibility;
- (3) pass an approved field examination testing proficiency in guard dog handling.

(b) To renew a guard dog handler specialty designation, a licensee shall, at the time the Part 4 license is timely renewed, demonstrate that he or she has in the preceding six months:

- (1) repeated and refreshed the classroom training required by Part 5-4(a)(2)
- (2) re-qualified at field examination as required by Part 5-4(a)(3).

|         |                 |
|---------|-----------------|
| Part 6: | License Renewal |
|---------|-----------------|

**6-1 Biennial Licensing Period.** Licenses and specialty designations are valid for fixed, two-year periods and lapse if not renewed before the end of each biennial period. An initial license issued fewer than 90 days prior to the beginning of the fixed biennial period shall be valid through the end of full biennial licensing period following initial licensure. Expiration dates are printed on licenses. A lookup tool on the Office website may be considered a primary source verification as to the license status and expiration date of all Office licensees.

**6-2 License Renewal.** License renewal applications are available from the Office website. The Office transmits email reminders to licensees at the end of each biennial licensing period; however, non-receipt of such reminders shall not excuse a licensee from the obligation to maintain continuous licensure or the consequences of failing to do so. Practicing while a license is lapsed is a violation of 3 V.S.A. § 127.

**6-3 Cardiopulmonary Resuscitation.** Within three months of hire by an agency, all security personnel shall have acquired certification in cardiopulmonary resuscitation and the use of an automated external defibrillator from the American Red Cross, the American Heart Association, or an equivalent source approved by the Office. The Office may require that valid certification be documented or attested-to as a condition of license renewal. An agency shall keep records of employee certification and shall produce the same upon request of the Office.

**6-4 Late Renewal Penalties.** Late renewal applications are subject to reinstatement fees pursuant to 3 V.S.A. § 127(d). Late reinstatement fees are waivable at the discretion of the Director where a licensee has fully and completely removed himself or herself from practice for a period and has ceased holding himself or herself out as licensed. Licensees planning extended absence from practice are advised to document such intentions in advance to eliminate any subsequent question as to waiver eligibility.

|         |                      |
|---------|----------------------|
| Part 7: | Duties and Standards |
|---------|----------------------|

**7-1 Duty to Update and Self-Report.** Applicants and licensees owe a duty of candor to the Office and shall disclose circumstances that may call for further investigation to protect the public. That a matter is reportable does not imply that the matter necessarily is a basis for discipline. A licensee or applicant; and an agency in respect to its partners, corporate officers, agents, and employees; shall report to the Office, in writing, within 30 business days:

- (a) any material inaccuracy or change in circumstance relative to any application question, where the changed circumstance arises between submission of a license application and issuance of the license sought;
- (b) any arrest, charge, or conviction for a criminal act;

- (c) any legal claim, settlement, or judgment arising from alleged professional negligence, misconduct, or malpractice;
- (d) any adverse action against a foreign professional license, where the adverse action relates to an allegation of misconduct, substandard practice, or unethical conduct.

**7-2 Mandated Reporters.** Any hospital, clinic, community mental health center, or other health care institution in which a licensee performs professional services shall report disciplinary action against a licensee, as further specified by 3 V.S.A. § 128.

**7-3 Professional Standards.** An administrative law officer may consider agency codes of conduct, practice guidelines, and training materials when determining “the essential standards of acceptable and prevailing practice” for purposes of 26 V.S.A. § 129a(b). All licensees should be familiar with these materials, where applicable, and the bases for discipline identified in Part 8.

**7-4 Identification to the Public.** A licensee must at all times when working carry his or her license or registration, or a true copy thereof, on his or her person. A licensee shall produce the same upon request of any law enforcement officer, Office investigator or inspector, or member of the public, unless doing so would create an unwarranted risk to the licensee’s safety. Uniforms, badges, and insignia must not suggest law enforcement authority or otherwise mislead the public as to the licensee’s authority, identity, or employer. Unauthorized retention or off-duty use of agency uniforms, badges, or insignia is unprofessional conduct.

**7-5 Agencies: De-Registration.** An agency shall notify the Office within 72 hours of terminating the employment of any employee licensed under Part 4 of these rules. A person licensed as an agency security guard under Part 4 shall be deemed registered with the agency when the Office confirms the registration.

**7-6 Inspection.** At work sites, no licensee may impede an investigation or unreasonably fail to reply, cooperate, or produce lawfully requested records in relation to an investigation or inspection. *See* 3 V.S.A. § 129a(a)(16(A)).

|                           |
|---------------------------|
| <b>Part 8:</b> Discipline |
|---------------------------|

**8-1 Unprofessional Conduct.** Unprofessional conduct includes those acts set out at 3 V.S.A. § 129a (applicable to all professional licensees) and 26 V.S.A. § 3181 (applicable to private investigators and security guards). Violation of these rules is cognizable as unprofessional conduct pursuant to 3 V.S.A. § 129a(a)(3).

**8-2 Remedies.** Upon a finding by an administrative law officer that a licensee, applicant, or person who later becomes an applicant has committed unprofessional conduct, within or without this State, or has had a license application denied or a license revoked, suspended, limited, conditioned, or otherwise disciplined by a licensing agency in another jurisdiction for conduct which would constitute unprofessional conduct in this State, or has surrendered a license while under investigation for unprofessional conduct, the Director may warn, reprimand, suspend, revoke, limit, condition, deny, or prevent the renewal of a license. *See* 3 V.S.A. § 129(a). A license may be summarily suspended pending further proceedings, consistent with 3 V.S.A. § 814(c), upon a finding that public health, safety, or welfare imperatively requires emergency action.

**8-3 Procedures.** Disciplinary proceedings are contested cases for purposes of Rule 3-3, above, and



therefore are governed by the Office of Professional Regulation Administrative Rules of Practice, CVR 04-030-005.

**Part 9: Training Programs**

**9-1 Training Approval.** The Office will credit toward Part 4 license requirements the satisfactory completion of programs of training, examination, and testing that have been duly approved under this Part. An agency or other organization seeking program approval shall apply in writing, on forms provided by the Office. Training must be structured and cannot involve allowing an unlicensed person to provide licensed activities without active guidance and supervision by a responsible licensee. Approvals will be granted for a defined period of time and will relate to the specific instructor or instructors identified in the application. The Office may at any time require that an approved training program re-verify its compliance with the requirements of this Part and may verify that training is carried out as approved by sending observers, requesting training materials or records, or interviewing participants.

**9-2 Licensed Security Guard Training - 40 Hours.**

(a) An instructor or course organizer must be a licensed security guard in good standing, with five years' experience in security or law enforcement. The Director may waive instructor qualifications on a case-by-case basis where an instructor can demonstrate substantially equivalent preparation to train others.

(b) A 40-hour course shall address the following components at the following minimum durations:

|                                       |         |
|---------------------------------------|---------|
| 1. Role of the security guard         | 2 hours |
| 2. Ethics and conduct                 | 4 hours |
| 3. Legal powers and limitations       | 4 hours |
| 4. Communication and public relations | 4 hours |
| 5. Patrolling/investigation           | 4 hours |
| 6. Emergency response                 | 4 hours |
| 7. Observation and note taking        | 4 hours |
| 8. Statements                         | 2 hours |
| 9. Evidence                           | 2 hours |
| 10. Access control                    | 2 hours |
| 11. Report writing                    | 4 hours |

**9-3 Registered Security Employee Training - 8 Hours.**

(a) An instructor or course organizer shall be qualified as required by Rule 9-2(a).

(b) An 8-hour course shall address the following components at the following minimum durations:

|                                      |         |
|--------------------------------------|---------|
| 1. Role of the agency security guard | 2 hours |
| 2. Ethics and conduct                | 3 hours |
| 3. Legal powers and limitations      | 3 hours |

**9-4 Licensed Private Investigator Training - 40 Hours.**



(a) An instructor or course organizer must be a licensed private investigator in good standing, with five years' experience in security or law enforcement. The Director may waive instructor qualifications on a case-by-case basis where an instructor can demonstrate substantially equivalent preparation to train others.

(b) A 40-hour course shall address the following components at the following minimum durations:

- |                                         |         |
|-----------------------------------------|---------|
| 1. Role of the private investigator     | 2 hours |
| 2. Ethics and conduct                   | 4 hours |
| 3. Legal powers and limitations         | 6 hours |
| 4. Communication and public relations   | 4 hours |
| 5. Investigative tools and applications | 6 hours |
| 6. Observation and note taking          | 4 hours |
| 7. Statements                           | 2 hours |
| 8. Evidence                             | 4 hours |
| 9. Report Writing                       | 6 hours |

**9-5 Registered Investigative Employee Training - 8 Hours.**

(a) An instructor or course organizer shall be qualified as required by 9-4(a)

(b) An 8-hour course shall address the following components at the following minimum durations:

- |                                            |         |
|--------------------------------------------|---------|
| 1. Role of the agency private investigator | 2 hours |
| 2. Ethics and conduct                      | 3 hours |
| 3. Legal powers and limitations            | 3 hours |

VERMONT **GENERAL ASSEMBLY**

# The Vermont Statutes Online

**Title 26 : Professions And Occupations****Chapter 059 : Private Investigative And Security Services****Subchapter 002 : Administration**

(Cite as: 26 V.S.A. § 3162)

**§ 3162. Director; powers and duties**

The Director shall adopt rules necessary for the effective administration of this chapter, including rules prescribing minimum standards and qualifications for:

(1) security guards who may:

(A) practice independently or head agencies; or

(B) practice within the hierarchy of an agency;

(2) private investigators who may:

(A) practice independently or head agencies; or

(B) practice within the hierarchy of an agency;

(3) agencies; and

(4) recognized trainers and training programs. (Added 1981, No. 98, § 1; amended 1989, No. 250 (Adj. Sess.), § 4(d); 1995, No. 144 (Adj. Sess.), § 4; 2001, No. 151 (Adj. Sess.), § 28, eff. June 27, 2002; 2005, No. 27, § 89a; 2013, No. 138 (Adj. Sess.), § 24; 2017, No. 144 (Adj. Sess.), § 24; 2019, No. 178 (Adj. Sess.), § 17, eff. Oct. 1, 2020.)

VERMONT **GENERAL ASSEMBLY**

# The Vermont Statutes Online

## Title 3 : Executive

### Chapter 025 : Administrative Procedure

#### Subchapter 001 : General Provisions

(Cite as: 3 V.S.A. § 801)

#### § 801. Short title and definitions

(a) This chapter may be cited as the "Vermont Administrative Procedure Act."

(b) As used in this chapter:

(1) "Agency" means a State board, commission, department, agency, or other entity or officer of State government, other than the Legislature, the courts, the Commander in Chief, and the Military Department, authorized by law to make rules or to determine contested cases.

(2) "Contested case" means a proceeding, including but not restricted to rate-making and licensing, in which the legal rights, duties, or privileges of a party are required by law to be determined by an agency after an opportunity for hearing.

(3) "License" includes the whole or part of any agency permit, certificate, approval, registration, charter, or similar form of permission required by law.

(4) "Licensing" includes the agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment of a license.

(5) "Party" means each person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party.

(6) "Person" means any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character other than an agency.

(7) "Practice" means a substantive or procedural requirement of an agency, affecting one or more persons who are not employees of the agency, that is used by the agency in the discharge of its powers and duties. The term includes all such requirements, regardless of whether they are stated in writing.

(8) "Procedure" means a practice that has been adopted in writing, either at the election of the agency or as the result of a request under subsection 831(b) of this title. The term includes any practice of any agency that has been adopted in writing, whether or not labeled as a procedure, except for each of the following:

(A) a rule adopted under sections 836-844 of this title;

(B) a written document issued in a contested case that imposes substantive or procedural requirements on the parties to the case;

(C) a statement that concerns only:

(i) the internal management of an agency and does not affect private rights or procedures available to the public;

(ii) the internal management of facilities that are secured for the safety of the public and the individuals residing within them; or

(iii) guidance regarding the safety or security of the staff of an agency or its designated service providers or of individuals being provided services by the agency or such a provider;

(D) an intergovernmental or interagency memorandum, directive, or communication that does not affect private rights or procedures available to the public;

(E) an opinion of the Attorney General; or

(F) a statement that establishes criteria or guidelines to be used by the staff of an agency in performing audits, investigations, or inspections, in settling commercial disputes or negotiating commercial arrangements, or in the defense, prosecution, or settlement of cases, if disclosure of the criteria or guidelines would compromise an investigation or the health and safety of an employee or member of the public, enable law violators to avoid detection, facilitate disregard of requirements imposed by law, or give a clearly improper advantage to persons that are in an adverse position to the State.

(9) "Rule" means each agency statement of general applicability that implements, interprets, or prescribes law or policy and that has been adopted in the manner provided by sections 836-844 of this title.

(10) "Incorporation by reference" means the use of language in the text of a regulation that expressly refers to a document other than the regulation itself.

(11) "Adopting authority" means, for agencies that are attached to the Agencies of Administration, of Commerce and Community Development, of Natural Resources, of Human Services, and of Transportation, or any of their components, the secretaries of those agencies; for agencies attached to other departments or any of their components, the commissioners of those departments; and for other agencies, the chief officer of the agency. However, for the procedural rules of boards with quasi-judicial powers, for the Transportation Board, for the Vermont Veterans' Memorial Cemetery Advisory Board, and for the Fish and Wildlife Board, the chair or executive secretary of the board shall be the adopting authority. The Secretary of State shall be the adopting authority for the Office of Professional Regulation.

(12) "Small business" means a business employing no more than 20 full-time

employees.

(13)(A) "Arbitrary," when applied to an agency rule or action, means that one or more of the following apply:

(i) There is no factual basis for the decision made by the agency.

(ii) The decision made by the agency is not rationally connected to the factual basis asserted for the decision.

(iii) The decision made by the agency would not make sense to a reasonable person.

(B) The General Assembly intends that this definition be applied in accordance with the Vermont Supreme Court's application of "arbitrary" in *Beyers v. Water Resources Board*, 2006 VT 65, and *In re Town of Sherburne*, 154 Vt. 596 (1990).

(14) "Guidance document" means a written record that has not been adopted in accordance with sections 836-844 of this title and that is issued by an agency to assist the public by providing an agency's current approach to or interpretation of law or describing how and when an agency will exercise discretionary functions. The term does not include the documents described in subdivisions (8)(A) through (F) of this section.

(15) "Index" means a searchable list of entries that contains subjects and titles with page numbers, hyperlinks, or other connections that link each entry to the text or document to which it refers. (Added 1967, No. 360 (Adj. Sess.), § 1, eff. July 1, 1969; amended 1981, No. 82, § 1; 1983, No. 158 (Adj. Sess.), eff. April 13, 1984; 1985, No. 56, § 1; 1985, No. 269 (Adj. Sess.), § 4; 1987, No. 76, § 18; 1989, No. 69, § 2, eff. May 27, 1989; 1989, No. 250 (Adj. Sess.), § 88; 2001, No. 149 (Adj. Sess.), § 46, eff. June 27, 2002; 2017, No. 113 (Adj. Sess.), § 3; 2017, No. 156 (Adj. Sess.), § 2.)



# Proposed Rules Postings

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### Deadline For Public Comment

Deadline: Jul 05, 2021

The deadline for public comment has expired. Contact the agency or primary contact person listed below for assistance.

### Rule Details

|                  |                                                                                                                                                                                                                                                               |
|------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Rule Number:     | 21P015                                                                                                                                                                                                                                                        |
| Title:           | Administrative Rules for Private Investigators and Security Guards                                                                                                                                                                                            |
| Type:            | Standard                                                                                                                                                                                                                                                      |
| Status:          | Proposed                                                                                                                                                                                                                                                      |
| Agency:          | Office of Professional Regulation, Office of the Secretary of State                                                                                                                                                                                           |
| Legal Authority: | 26 V.S.A. § 3162, and 3 V.S.A. § 801(b)(11)                                                                                                                                                                                                                   |
| Summary:         | This rule modernizes the regulation of private investigators, providers of private security, and agencies. The rule will complete efforts undertaken by the Office of Professional Regulation, with grant support from the United States Department of Labor, |

to simplify regulation, eliminate redundant licensure, and align regulation with real-world practice. First, Act 144 (2018), § 24 facilitated a simplified licensing structure, with two tiers of individual licensure for private investigators and security personnel. Second, Act 178 (2020), eliminated the Board of Private Investigative and Security Services, effective October 1, 2020, and established a more efficient, advisor-based regulatory model. The Rule replaces an unwieldy system of temporary and provisional licensure with a realistic, eight-hour requirement for pre-employment training of new employees; eliminates licensure of "designated agents" for already-licensed agencies; and allows independent practitioners to operate under a single license.

Persons Affected:

Private security agencies; private investigators; security officers; security agencies; private investigative agencies; hospitals; courts; public shopping venues; concert venues; colleges and universities; insurers; and other employers of private investigators.

Economic Impact:

By eliminating redundant licensing requirements and aligning training requirements with labor-market conditions, this Rule will reduce regulatory burdens on private investigative and security agencies, and it will make it less burdensome for independent private investigators to serve clients. For example, a private investigator may operate under one license, rather than being licensed individually, as a "qualifying agent" and as a firm. By articulating realistic but concrete training requirements, the Rule makes it possible to ensure appropriate minimum training of security personnel without a system of temporary and provisional licensing that added complication and expense at seasonal peaks.

Posting date:

May 19, 2021

## Hearing Information

### Information for Hearing # 1

Hearing date: 06-25-2021 10:00 AM

Location: Virtual Hearing via Microsoft Teams ID: 287 685 424#

Address: Call in (audio only) +1 802-828-7667, 287685424#

City: n/a

State: VT

Zip: n/a



Also available online at: [https://teams.microsoft.com/l/meetup-join/193ameeting\\_YTA2MjczN2EtMTQ0Yi00ODg1LTkzZGItZjI2YWZlMzZl?context=7b22Tid223a2220b4933b-baad-433c-9c02-70edcc7559c6222c22Oid223a225692bd31-7f6d-4343-af2e-c35a1e66ac](https://teams.microsoft.com/l/meetup-join/193ameeting_YTA2MjczN2EtMTQ0Yi00ODg1LTkzZGItZjI2YWZlMzZl?context=7b22Tid223a2220b4933b-baad-433c-9c02-70edcc7559c6222c22Oid223a225692bd31-7f6d-4343-af2e-c35a1e66ac)  
Hearing Notes:

## Contact Information

### Information for Primary Contact

**PRIMARY CONTACT PERSON - A PERSON WHO IS ABLE TO ANSWER QUESTIONS OF THE RULE.**

Level: Primary  
Name: Gabriel Gilman  
Agency: Office of Professional Regulation, Office of the Secretary of State  
Address: 89 Main Street, 3rd Floor  
City: Montpelier  
State: VT  
Zip: 05620-3402  
Telephone: 802-828-2492  
Fax:  
Email: [gabriel.gilman@vermont.gov](mailto:gabriel.gilman@vermont.gov)  
Website: <https://sos.vermont.gov/private-investigative-security-services/statutes-rules>  
Address:

### Information for Secondary Contact

**SECONDARY CONTACT PERSON - A SPECIFIC PERSON FROM WHOM COPIES REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FROM THE PRIMARY CONTACT PERSON.**

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## Keyword Information

Keywords:

private investigators  
security services  
security guards  
investigation

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|            | St. Albans Messenger<br>Ben Letourneau ( <a href="mailto:ben.letourneau@samessenger.com">ben.letourneau@samessenger.com</a> )                                                                                                                                                                         | Tel: 524-9771 ext. 117    FAX: 527-1948<br>Attn: Ben Letourneau |
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|            | The Islander<br>( <a href="mailto:islander@vermontislander.com">islander@vermontislander.com</a> )                                                                                                                                                                                                    | Tel: 802-372-5600    FAX: 802-372-3025                          |
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|            | Vermont Lawyer<br>( <a href="mailto:hunter.press.vermont@gmail.com">hunter.press.vermont@gmail.com</a> )                                                                                                                                                                                              | Attn: Will Hunter                                               |

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**FROM:** APA Coordinator, VSARA

**Date of Fax:** May 18, 2021

**RE:** The "Proposed State Rules " ad copy to run on

**May 27, 2021**

PAGES INCLUDING THIS COVER MEMO:

**2**

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**\*NOTE\*** 8-pt font in body. 12-pt font max. for headings - single space body. Please include dashed lines where they appear in ad copy. Otherwise minimize the use of white space. Exceptions require written approval.

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If you have questions, or if the printing schedule of your paper is disrupted by holiday etc. please contact VSARA at 802-828-3700, or E-Mail [sos.statutoryfilings@vermont.gov](mailto:sos.statutoryfilings@vermont.gov), Thanks.

## PROPOSED STATE RULES

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By law, public notice of proposed rules must be given by publication in newspapers of record. The purpose of these notices is to give the public a chance to respond to the proposals. The public notices for administrative rules are now also available online at <https://secure.vermont.gov/SOS/rules/>. The law requires an agency to hold a public hearing on a proposed rule, if requested to do so in writing by 25 persons or an association having at least 25 members.

To make special arrangements for individuals with disabilities or special needs please call or write the contact person listed below as soon as possible.

To obtain further information concerning any scheduled hearing(s), obtain copies of proposed rule(s) or submit comments regarding proposed rule(s), please call or write the contact person listed below. You may also submit comments in writing to the Legislative Committee on Administrative Rules, State House, Montpelier, Vermont 05602 (802-828-2231).

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Administrative Rules for Private Investigators and Security Guards.

Vermont Proposed Rule: 21P015

AGENCY: Secretary of State, Office of Professional Regulation

CONCISE SUMMARY: This rule modernizes the regulation of private investigators, providers of private security, and agencies. The rule will complete efforts undertaken by the Office of Professional Regulation, with grant support from the United States Department of Labor, to simplify regulation, eliminate redundant licensure, and align regulation with real-world practice. First, Act 144 (2018), § 24 facilitated a simplified licensing structure, with two tiers of individual licensure for private investigators and security personnel. Second, Act 178 (2020), eliminated the Board of Private Investigative and Security Services, effective October 1, 2020, and established a more efficient, advisor-based regulatory model. The Rule replaces an unwieldy system of temporary and provisional licensure with a realistic, eight-hour requirement for pre-employment training of new employees; eliminates licensure of "designated agents" for already-licensed agencies; and allows independent practitioners to operate under a single license.

FOR FURTHER INFORMATION, CONTACT: Gabriel Gilman, Secretary of State, Office of Professional Regulation, 89 Main St, 3rd Floor, Montpelier, VT 05620-3402 Tel: 802-828-2492 Email: [gabriel.gilman@vermont.gov](mailto:gabriel.gilman@vermont.gov) URL: <https://sos.vermont.gov/private-investigative-security-services/statutes-rules-resources/>.

FOR COPIES: Jennifer Rotblatt, Secretary of State, Office of Professional Regulation, 89 Main St, 3rd Floor, Montpelier, VT 05620-3402 Tel: 802-828-2191 Email: [jennifer.rotblatt@vermont.gov](mailto:jennifer.rotblatt@vermont.gov).

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(802) 828-2863

MEMORANDUM

OFFICE OF THE SECRETARY OF STATE

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Primary Contact: Gabriel Gilman, Secretary of State, Office of Professional Regulation, 89 Main St, 3rd Floor, Montpelier, VT 05620-3402 Tel: 802-828-2492 Email: gabriel.gilman@vermont.gov

Secondary Contact: Jennifer Rotblatt, Secretary of State, Office of Professional Regulation, 89 Main St, 3rd Floor, Montpelier, VT 05620-3402 Tel: 802-828-2191 Email: jennifer.rotblatt@vermont.gov.

URL: <https://sos.vermont.gov/private-investigative-security-services/statutes-rules-resources/>

From: APA Coordinator, VSARA

RE: Administrative Rules for Private Investigators and Security Guards.

Date 05/14/2021

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We received Proposed Rule on 05/12/2021

Final Proposed Rule on

Adopted Rule on

We have assigned the following rule number(s):

Proposed Rule Number: 21P015

Adopted Rule Number:

(Final Proposals are not assigned a new number; they retain the Proposed Rule Number.)

The following problems were taken care of by phone/should be taken care of immediately: Proposed Filing: the hearing date listed is not in compliance with 3 V.S.A. § 840(a) and the filing did not include an annotated text as required by 3 V.S.A. § 838(a)(6). Revised hearing information and annotated text received via email 05/14/2021, no further action required.

We cannot accept this filing until the following problems are taken care of:

The notice for this proposed rule appeared/will appear online on: 5/19/2021 and in the newspapers of record on 5/27/2021.

This rule takes effect on  
Adoption Deadline: 01/12/2022

Please note:

If you have any questions, please call me at 828-2863. OR  
E-Mail me at: [sos.statutoryfilings@vermont.gov](mailto:sos.statutoryfilings@vermont.gov)

cc: Charlene Dindo