

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/.

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/. 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/ 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/.

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/opr/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)).

Part 8: 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 |