

Part 6028 of 9 NYCRR is repealed and a new Part 6028 is added to read as follows:

Part 6028

Approved Security Guard Training Schools

Note: The training requirements recommended by the Security Guard Advisory Council, and adopted by the Commissioner of the Division of Criminal Justice Services (commissioner), are promulgated in 9 NYCRR Parts 6027, 6028 and 6029, with respect to security guard training courses, the approved security guard training schools, and the security guard instructor standards and qualifications. These regulations specify the requirements necessary for the approval of a course or school, or certification of an instructor. The approval or certification granted by the commissioner shall address these requirements.

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Section 6028.1 Definitions.

When used in this Part:

- (a) The term *commissioner* shall mean the Commissioner of the Division of Criminal Justice Services, or his or her designee.
- (b) The term *division* shall mean the Division of Criminal Justice Services.
- (c) The term *council* shall mean the Security Guard Advisory Council.
- (d) The term *approved security guard training school* shall mean an entity which has been approved as a security guard training school by the commissioner in accordance with section 6028.3 of this Part and is approved to provide a security guard training course or courses as set forth in Part 6027 of this Title.
- (e) The term *security guard training course or courses* shall mean, separately and collectively:
 - (1) the eight hour pre-assignment training course which meets the minimum standards as set forth in Part 6027 of this Title and which has been approved by the commissioner in accordance with the provisions of Part 6027 of this Title;
 - (2) the on-the-job training course which meets the minimum standards as set forth in Part 6027 of this Title and which has been approved by the commissioner in accordance with the provisions of Part 6027 of this Title;
 - (3) the 47 hour firearms training course which meets the minimum standards as set forth in Part 6027 of this Title and which has been approved by the commissioner in accordance with the provisions of Part 6027 of this Title;

- (4) the eight hour annual in-service training course which meets the minimum standards as set forth in Part 6027 of this Title and which has been approved by the commissioner in accordance with the provisions of Part 6027 of this Title; and
- (5) the eight hour annual in-service training course for holders of special armed guard registration cards which meets the minimum standards as set forth in Part 6027 of this Title and which has been approved by the commissioner in accordance with the provisions of Part 6027 of this Title.

(f) The term *successful completion* or *successfully complete* shall mean the attendance of a student at all sections of a security guard training course and the course curriculum was not altered in either content or duration from that which was approved and the course met the minimum standards.

(g) The term *school director or school co-director* shall mean the director or co-director of an approved security guard training school as designated by the school owner, who is responsible for the administration of the school and/or responsible for the administration of additional school locations which have been approved by the commissioner.

(h) The term *certified security guard instructor* shall mean an individual who meets the minimum requirements for security guard instructor certification or the requirements for special security guard instructor certification or the requirements for armed security guard instructor certification as set forth in Part 6029 of this Title and who has been certified by the commissioner in accordance with the provisions of Part 6029 of this Title.

(i) The term *school owner* shall mean the owner of an approved security guard training school.

(j) The term *public entity* shall mean:

(1) the state of New York;

(2) a county, city, town, village or any other political subdivision or civil department or division of the state;

(3) any other public corporation, public authority, commission, agency, municipal or other public housing authority, or project organized pursuant to article two of the private housing finance law;

(4) any other governmental instrumentality or governmental unit in the state of New York.

(k) The term *defects in business practices* shall include, but not be limited to: security guard training courses not meeting the minimum standards as set forth in Part 6027 of this Title; selling certificates of successful completion; combining or condensing security guard training courses; use of false, deceptive or misleading advertisements and such advertisements are in contradiction with applicable laws, rules and regulations, division requirements, and policies and procedures with respect to security guard training courses, approved security guard training schools and security guard instructor standards and qualifications; and false, deceptive or misleading representations to students about security guard training courses.

6028.2 Statement of purpose.

The purpose of this Part is to set forth the minimum qualifications for approval as a security guard training school and to establish clear and specific requirements for such approval.

6028.3 Requirements for approval of a security guard training school.

(a) The existing or prospective school owner shall submit a completed Security Guard Training School Application form prescribed by the division. The application shall include such information as may be required or requested by the commissioner.

(b) The existing or prospective school owner shall at a minimum:

- (1) possess standards of good character, integrity and trustworthiness; and
- (2) be an officer, member, or principal currently licensed by the Department of State as a private investigator; watch, guard or patrol agency; or armored car carrier; or
- (3) maintain a valid security guard registration card issued by the Department of State; or
- (4) maintain a valid armored car guard registration card issued by the Department of State.

(c) Each existing or prospective security guard training school owner applicant applying for approval shall appoint a school director.

(d) The existing or prospective school director, and, if applicable, school co-director, shall at a minimum:

- (1) possess standards of good character, integrity and trustworthiness; and

- (2) be an officer, member, or principal currently licensed by the Department of State as a private investigator; watch, guard or patrol agency; or armored car carrier agency; or
- (3) maintain a valid security guard registration card issued by the Department of State; or
- (4) maintain a valid armored car guard registration card issued by the Department of State.

(e) The commissioner shall consider additional factors including, but not limited to: whether the existing or prospective school owner, school director or co-director(s) has had a security guard school application or renewal application denied for cause, or is the owner, school director or co-director of a school where the approval of such school has ever been or is suspended or revoked pursuant to this Part and the date and nature of such denial, suspension or revocation; whether the existing or prospective school owner, school director or co-director(s) utilizes a security guard instructor who has had a certification denied, suspended or revoked pursuant to Part 6029 of this Title; whether the existing or prospective school owner, school director or co-director(s) has ever been convicted of a crime, and the date and nature of the offense; and whether there are any criminal charges pending against the existing or prospective school owner, school director or co-director(s).

(f) Each existing or prospective school owner applicant applying for approval shall submit a school application fee as determined by the schedule of fees prescribed by the commissioner in section 6028.8 of this Part.

(g) The council or the commissioner may visit and inspect any security guard training school for which application for approval has been made.

(h) The commissioner may require any additional information deemed necessary for the purposes of approving a security guard training school.

(i) The commissioner shall provide a written approval of a security guard training school when, in his or her judgment, the information provided warrants approval.

6028.3-A Exemptions.

Some of the requirements for the existing or prospective school owner, school director or school co-director may be waived by the commissioner if the security guard training school, or existing or prospective school owner, director or co-director is:

(a) A public or private educational institution operating under the purview of the New York State Education Department or an equivalent agency in another jurisdiction; or

(b) A public entity; or

(c) An entity employing security guards on a proprietary basis for its own use; or

(d) An educational institution conducted on a not-for-profit basis by firms or organizations, provided that such instruction is offered at no charge; or

(e) An employed police or peace officer in good standing.

6028.4 Suspension and revocation of approval of a security guard training school.

(a) The commissioner may move to suspend or revoke the security guard training school approval pursuant to this Part at any time. Upon the suspension of the approval of a security guard training school, the commissioner shall either:

(1) Proceed under the provisions of paragraph (c) of this section to revoke the school approval, or;

(2) Hold the revocation of the school approval in abeyance pending the resolution of the concerns raised by the commissioner.

(b) Suspension.

(1) The approval of a security guard training school may be suspended for causes including, but not be limited to: violation of any of the provisions of Article 7-A of the General Business Law, and/or applicable rules and regulations as set forth in this Part; the commissioner determines that there are defects in business practices; the security guard training school owner, director, and/or co-director is charged with a felony or misdemeanor and the conduct constituting the offense was performed in the name of or in behalf of the school, or, in the discretion of the commissioner, bears on the integrity of the division; the security guard training school application contained a material false statement or omission, the truth or inclusion of which would have resulted in denial of the application pursuant to this Part; or any other cause for which the commissioner deems the suspension necessary.

(2) The commissioner may, but is not required to, send the security guard training school, via certified mail, a written a notice to cure in response to paragraph one of this subdivision.

Upon receipt of such notice, the approval of such security guard training school shall be suspended and such school shall not operate as an approved security guard training school and shall not conduct any security guard training course or courses.

(3) No later than fifteen (15) days of the receipt of said notice, the security guard training school owner may address the concerns raised. The security guard training school owner shall notify the division in writing of the actions taken. If the actions do not satisfactorily address the concerns of the division, the division may proceed with the revocation of the approval of the security guard training school.

(4) Where the security guard training school owner, director, and/or co-director has been charged with a felony or misdemeanor, the commissioner shall send the security guard training school, via certified mail, a written notice of suspension pending the disposition of the case. Upon receipt of such notice, the approval of such security guard training school shall be suspended and such school shall not operate as an approved security guard training school and it shall not conduct any security guard training course or courses.

(5) A suspended security guard training school approval may be reissued only by the commissioner.

(c) Revocation.

(1) The approval of a security guard training school may be revoked for causes including, but not be limited to: violation of any of the provisions of Article 7-A of the General Business Law, and/or applicable rules and regulations as set forth in this Part; the

commissioner determines that there are defects in business practices; the security guard training school owner, director, and/or co-director is convicted of a felony or misdemeanor and the conduct constituting the offense was performed in the name of or in behalf of the school, or, in the discretion of the commissioner, bears on the integrity of the division; the security guard training school application contained a material false statement or omission, the truth or inclusion of which would have resulted in denial of the application pursuant to this Part; a school, after receipt of a notice of suspension, continues to conduct security guard training courses or holds itself out to be an approved security guard training school; or any other cause for which the commissioner deems the revocation necessary.

- (2) The commissioner shall send the security guard training school owner, via certified mail, a written notice of his or her intent to revoke the approval of such security guard training school and the reasons for such action. Upon receipt of such notice, the approval of such security guard training school shall be suspended, or will remain suspended, and such school shall not operate as an approved security guard training school and shall not conduct any security guard training course or courses.
- (3) Within fifteen (15) days of the receipt of said notice, the security guard training school owner may forward a written request to the commissioner for a hearing to be held by the council to consider the revocation of the security guard training school approval. The commissioner shall forward the request to the council. The failure of the security guard training school owner to timely request a hearing shall not preclude the commissioner from revoking the approval.

(4) Such hearing shall be held at the next meeting of the council. At least fifteen (15) days before the next council meeting, the commissioner shall give to the school owner written notice by mail of the time and place of said meeting wherein a hearing shall be held to consider the revocation of the security guard training school approval. The security guard training school may be represented at the hearing by counsel and may produce any evidence to support its position

(5) The hearing shall be conducted in accordance with the provisions of the state administrative procedure act. Following deliberation, and in accordance with the open meetings law established by article seven of the public officers law, the council shall submit its recommendation to the commissioner. Following receipt of the council's recommendation, and within 90 days of the date of the hearing, the commissioner shall forward to the school owner the decision and the reasons given for such decision. The commissioner makes the final decision, notwithstanding the council's recommendation. The commissioner, and not the council, shall be responsible for setting any penalty.

(6) A revocation shall remain in effect for at least one year, depending upon factors enumerated in section 6028.3(e) of this Part and other factors, and upon a showing of corrective action.

(d) During an on-site inspection of an approved security guard training school by the commissioner, the commissioner may suspend an approved security guard training school pending revocation if the violation or misconduct warrants such action.

(1) To invoke the suspension, the commissioner shall provide the approved security guard training school with a notice of intent to revoke the approval of such security guard training school and the reasons for such action on a form prescribed by the commissioner.

(2) Upon receipt of such notice, the approval of such security guard training school shall be suspended and such school shall not operate as an approved security guard training school and shall not conduct any security guard training course or courses.

(3) Within seventy-two hours of the notification, the commissioner shall proceed under the provisions of paragraphs (2) – (5), inclusive, of subdivision (c) of this section to revoke the school approval.

6028.5 Term and renewal of security guard training school approval.

(a) The security guard training school approval shall be valid only in the possession of the school to which it is issued for a period of two (2) years from the date of approval, unless revoked by the commissioner pursuant to section 6028.4 of this Part prior to its expiration.

(b) Owners of existing approved security guard training schools seeking renewal of approval must submit at least 120 days prior to the expiration date of the school approval a completed Security Guard Training School Renewal Application form prescribed by the commissioner. Each school owner applicant applying for renewal of approval shall submit a school renewal application fee as determined by the schedule of fees prescribed by the commissioner in section 6028.8 of this Part.

(c) A security guard training school approval which was not renewed or which expired may be reissued only in a manner prescribed by the commissioner.

(d) The council or the commissioner may visit any security guard training school for which application for such renewal has been made.

(e) The approval of a security guard training school may not be renewed for causes including, but not be limited to: violation of any of the provisions of Article 7-A of the General Business Law, and/or applicable rules and regulations as set forth in this Part; the commissioner determines that there are defects in business practices; the security guard training school owner, school director, and/or school co-director is convicted of a felony or misdemeanor and the conduct constituting the offense was performed in the name of or in the behalf of the school, or, in the discretion of the commissioner, bears on the integrity of the division; the security guard school application contained a material false statement or omission, the truth or inclusion of which would have resulted in denial of the application pursuant to this Part; or any other cause for which the commissioner deems the denial of renewal necessary. Where the security guard training school owner, director, and/or co-director has been charged with a felony or misdemeanor, the act of the commissioner to grant or deny renewal shall be suspended pending the disposition of the case.

(f) The commissioner shall send the security guard training school owner, via certified mail, written notice of his or her intent to deny the renewal of such security guard training school approval and the reasons for such action.

(g) Within fifteen (15) days of the receipt of said notice, the security guard training school owner may forward a written request to the commissioner for a hearing to be held by the council

to consider the denial of the security guard training school approval. The commissioner shall forward the request to the council. The failure of the security guard training school owner to timely request a hearing shall not preclude the commissioner from denying the renewal of the approval.

(h) Such hearing shall be held at the next meeting of the council. At least fifteen (15) days before the next council meeting, the commissioner shall give to the school owner written notice by mail of the time and place of said meeting wherein a hearing shall be held to consider the denial of the security guard training school approval. The security guard training school may be represented at the hearing by counsel and may produce any evidence to support its position.

(i) The hearing shall be conducted in accordance with the provisions of the state administrative procedure act. Following deliberation, and in accordance with the open meetings law established by article seven of the public officers law, the council shall submit its recommendation to the commissioner. Following receipt of the council's recommendation, and within 90 days of the date of the hearing, the commissioner shall forward to the school owner the decision and the reasons given for such decision. The commissioner makes the final decision, notwithstanding the council's recommendation. The commissioner, and not the council, shall be responsible for setting any penalty.

(j) A denial shall remain in effect for at least one year following the decision, depending upon factors enumerated in section 6028.3(e) of this Part and other factors, and upon a showing of corrective action.

6028.6 Requirements for the administration of an approved security guard training school.

(a) No entity shall operate as an approved security guard training school which does not meet the minimum standards as established in this Part.

(b) The security guard training school approval certification shall be displayed in a conspicuous place at all school facilities and training sites.

(c) The school owner, director, and, if applicable, co-director, shall ensure that the approved security guard training school is compliant with applicable laws, rules and regulations, division requirements, and policies and procedures. This includes, but is not limited to the following: ensure that no school personnel behaves in a manner that is in contradiction to any applicable statute, rule, policy or decision issued by the commissioner; ensure that only instructors certified pursuant to the provisions of this Title are allowed to instruct a security guard training course or program at the school; and periodic review of each security guard training course or program to ensure that the course or program is conducted in accordance with applicable standards.

(d) The council or the commissioner may conduct periodic unscheduled inspections of approved security guard training schools to monitor compliance with applicable laws, rules and regulations, division requirements, and policies and procedures. All such schools shall provide upon request of the council or the commissioner any and all records necessary to review compliance with the applicable laws, rules and regulations, division requirements, and policies and procedures.

(e) As provided for in Part 6027, the taking and passing of a written examination is required of each individual prior to issuance of a certificate of successful completion for the pre-assignment

training course, the on-the-job training course, the 47 hour firearms training course, and the eight hour annual in-service training course for holders of special armed guard registration cards. A certified security guard instructor shall provide the examination material, administer and supervise the examination, and grade the examination. The school owner, director, and, if applicable, co-director, shall retain lesson plans, class rosters, examination papers, student primary and secondary identification and all other appropriate records as determined by the commissioner in accordance with the appropriate schedule for records retention and disposition promulgated by the New York State Commissioner of the Department of Education. Such records shall be available for inspection by the council or the commissioner. Entities not otherwise covered by the Department of Education's schedule for records retention and disposition shall retain such records for a period of not less than two years.

(f) The school owner, director, and if applicable, co-director, shall ensure that each individual student presents acceptable identification prior to attending any section of a security guard training course. Primary identification includes one of the following: (1) valid driver's license; (2) valid United States passport; (3) current government ID; or (4) current Military ID. Secondary identification includes a social security card plus one of the following: (1) employer ID; (2) student photo ID; or (3) other similar photo ID.

(g) Attendance shall be required of each individual student for all sections of a security guard training course. No student shall be issued a certificate of completion who does not successfully complete a security guard training course.

(h) The school owner, director, and if applicable, co-director, shall ensure that the approved security guard training school and its employees, instructors, agents or other representatives adhere to and engage in proper business practices.

(i) The school owner, director, and, if applicable, co-director shall promptly respond to any and all requests and inquiries made by the division, and promptly investigate any and all complaints by students and prospective students with respect to this Part.

(j) If a school director or co-director ceases to be employed by the approved security guard training school, the school owner shall give written notification of such to the commissioner within (15) days of the director's termination of employment. In addition, the school shall provide written notification to the commissioner of the name of the newly appointed school director or co-director within (15) days of the appointment. The school shall not be allowed to operate as a security guard training school during such period of time when there is no appointed school director, unless the school owner is designated as acting school director.

(k) If an approved security guard training school is also approved by another entity, such school shall file a copy of such approval with the commissioner within 7 days of the receipt of such approval. If the security guard training school's approval is suspended or revoked by such other entity, such school shall notify the commissioner in writing within 10 days of such suspension or revocation along with a copy of the reasons for suspension or revocation.

(l) If any other information filed with the commissioner for the application required pursuant to this Part is changed or modified, the approved security guard training school shall notify the commissioner in writing of such change within 15 days of the change.

6028.7 Refund policy of an approved security guard training school.

(a) The refund policy for any approved security guard training school shall be as follows:

(1) The eight hour pre-assignment training course. An approved security guard training school may retain no more than zero percent of the course fees if a student withdraws from the course before instruction begins or one hundred percent of the course fees if the termination occurs after instruction begins. In the event that such training course cannot be conducted within one eight hour session and the course is conducted in two four hour sessions within a seven day period, an approved security guard training school may retain no more than zero percent of the course fees if the student withdraws from the course before instruction begins; or fifty percent of the course fees if the termination occurs after the commencement of the first four hour session, but before instruction begins for the second four hour session; or one hundred percent of the course fees if the termination occurs after instruction begins for the second four hour session.

(2) The on-the-job training course. An approved security guard training school may retain no more than zero percent of the course fees if the student withdraws from the course before instruction begins or one hundred percent of the course fees if the termination occurs after instruction begins. In the event that the such training course is conducted in two eight hour sessions, an approved security guard training school may retain no more than zero percent of the course fees if the student withdraws from the course before instruction begins; or fifty percent of the course fees if the termination occurs after the commencement of the first eight hour session, but before instruction begins for the second eight hour session; or one hundred percent of the course fees if the termination occurs after instruction begins for the second eight hour session.

(3) The 47 hour firearms training course. The 47 hour firearms training course shall be follow a curriculum consisting of at least 47 hours which includes: (1) Firearms handling, safety, proficiency and qualification -- 40 hours; and (2) Deadly physical force instruction, review and examination -- seven hours. An approved security guard training school may retain no more than zero percent if the student withdraws from the course before instruction begins; or one-sixth of the course fees if the termination occurs after the commencement of the deadly force instruction, but before instruction begins for the firearms handling, safety, proficiency and qualification component of the course; or one hundred percent of the course fees if the termination occurs after instruction begins for the firearms handling, safety, proficiency and qualification component of the course.

(4) The eight hour annual in-service training course. An approved security guard training school may retain no more than zero percent of the course fees if a student withdraws from the course before instruction begins or one hundred percent of the course fees if the termination occurs after instruction begins. In the event that such training course cannot be conducted within one eight hour session and the course is conducted in two four hour sessions within a seven day period, an approved security guard training school may retain no more than zero percent of the course fees if the student withdraws from the course before instruction begins; or fifty percent of the course fees if the termination occurs after the commencement of the first four hour session, but before instruction begins for the second four hour session; or one hundred percent of the course fees if the termination occurs after instruction begins for the second four hour session.

(b) Where a security guard training course is conducted in any other approved number of sessions, an approved security guard training school shall refund course fees accordingly.

(c) Notwithstanding the provisions of paragraph (a) of this section, and where applicable, if a student pays for a course or courses and fails to attend or successfully complete such course or courses due to defects in business practices unbeknownst to the student at the time of payment, all course fees received by an approved school shall be refunded to the student.

6028.8 Schedule of fees.

(a) The following non-refundable application fees will apply to:

Initial school application --\$1000.00

School Renewal --\$500.00

(b) Payment for services shall be made by electronic transfer of funds; postal money order; Western Union, Integrated Payment Systems, bank, American Express, or Travelers Express money orders; corporate check; or governmental check, unless otherwise provided by agreement. Bank money orders must be issued by a bank chartered in the United States, must be payable in U.S. funds, and must be valid for at least 90 days from the date of issuance. A \$25 service charge may be imposed for all checks that are returned due to insufficient funds. The commissioner may refuse to accept a certain form of payment if that form of payment has previously been uncollectible. Remittance shall be made payable to the Division of Criminal Justice Services.

(c) The commissioner may waive the initial school application fee or school renewal fee if the school is operated by a New York State or local government entity that provides training solely for security guards in its employ or a school district providing security guard training as part of a curriculum approved by the Department of Education.