

Part 6029 of 9 NYCRR is repealed and a new Part 6029 is added to read as follows:

## Part 6029

### Security Guard Instructor Standards and Qualifications

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 or certification of a course, school, or instructor. The approval or certification granted by the commissioner shall address these requirements.

#### Section

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Section 6029.1 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 *certified instructor* shall mean an individual who meets the minimum requirements for security guard instructor certification as set forth in section 6029.3 of this Part or the requirements for special security guard instructor certification as set forth in section 6029.4 of this Part or the requirements for armed security guard instructor certification as set forth in section 6029.5 of this Part, and who has been certified by the commissioner in accordance with the provisions of section 6029.2 of this Part.
- (e) The term *approved security guard training school* shall mean an entity which has been approved by the commissioner in accordance with the provisions of Part 6028 of this Title and is approved to provide a security guard training course or program as set forth in Part 6027 of this Title.
- (f) The term *security guard* shall have the same meaning as set forth in section 89-f of the General Business Law.

(g) The term *basic course* shall include the basic course for police officers as set forth in Part 6020 of this Title; the basic course for peace officers as set forth in Part 6025 of this Title; or the eight hour pre-assignment training course as set forth in Part 6027 of this Title.

(h) The term *police officer* shall have the same meaning as set forth in section 1.20(34) of the Criminal Procedure Law.

(i) The term *peace officer* shall have the same meaning as set forth in section 2.10 of the Criminal Procedure Law.

(j) The term *security guard instructor certification* shall mean any certification made by the commissioner to an individual whose qualifications meet the requirements established by section 6029.3 of this Part.

(k) The term *special security guard instructor certification* shall mean any certification made by the commissioner to an individual whose qualifications meet the requirements established by section 6029.4 of this Part.

(l) The term *armed security guard instructor certification* shall mean any certification made by the commissioner to an individual whose qualifications meet the requirements established by section 6029.5 of this Part.

(m) 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.

(n) The term *defects* 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; and false, deceptive or misleading representations to students about security guard training courses.

(o) The term *successfully complete* or *successfully completed* 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.

(p) The term *application fee* means the minimum fee charged for each initial application for instructor certification or renewal of certification as determined by the schedule of fees prescribed by the commissioner in section 6029.9 of this Part.

(q) 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.

6029.2 Certification of security guard instructor, special security guard instructor and armed security guard instructor.

Instructor certification for security guard instructor, special security guard instructor and armed security guard instructor may be granted by the commissioner upon demonstration of instructor competency and subject matter expertise and payment of an application fee, in accordance with the minimum requirements established by this Part.

6029.3 Minimum requirements for security guard instructor certification.

(a) Each applicant requesting security guard instructor certification shall:

(1) satisfy minimum qualification criteria relating to education, teaching experience, formal training, and security experience as determined by the commissioner, including but not limited to the following:

- (i) possess a high school diploma or its equivalent;
- (ii) possess standards of good character, integrity, and trustworthiness; and
- (iii) 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
- (iv) maintain a valid security guard registration card issued by the Department of State; or
- (v) maintain a valid armed security armored car guard registration card issued by the Department of State; or
- (vi) be employed as police or peace officer in good standing.

(2) submit an application fee as determined by the schedule of fees prescribed by the commissioner in section 6029.9 of this Part.

(b) The applicant shall forward any other additional information as determined by the commissioner to be necessary to establish the competence of the applicant.

(c) The commissioner shall consider additional factors including, but not limited to: whether the applicant has had a security guard, special security guard or armed security guard instructor, or security guard training school application or renewal application denied for cause, or is the instructor at a school where the security guard application or renewal application of such school

has ever been denied for cause pursuant to Part 6028 of this Title, and the date and nature of such denial; whether the applicant has had a security guard, special security guard or armed security guard instructor certification, or security guard training school approval suspended or revoked, or is the instructor at a school where the approval of such school has ever been or is suspended or revoked pursuant to Part 6028 of this Title, and the date and nature of such suspension or revocation; whether the applicant 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 applicant.

#### 6029.4 Requirements for special security guard instructor certification.

Special security guard instructor certification may be granted at the discretion of the commissioner upon written application in cases in which the applicant meets the minimum requirements for security guard instructor certification as set forth in section 6029.3 of this Part and has advanced academic credentials and qualifying experience in addition to having demonstrated technical expertise.

#### 6029.5 Requirements for armed security guard instructor certification.

(a) Each applicant requesting armed security guard instructor certification shall:

(1) have a minimum of three years experience as a police officer, peace officer or security guard.

The requirements relating to experience shall be satisfied by an individual who has carried a firearm in the course of his or her official duties and has done so for the prescribed period of time. Individuals who are not otherwise exempted from the licensing requirements of the Penal Law shall possess the requisite license in accordance with section 400.00 of the Penal Law; and

(2) have successfully completed a Firearms Instructor Course as prescribed by the commissioner.

(3) submit an application fee as determined by the schedule of fees prescribed by the commissioner in section 6029.9 of this Part

(b) All applicants requesting armed security guard instructor certification shall provide any other additional information as determined by the commissioner to be relevant to establish the competence of the applicant.

(c) The commissioner shall consider additional factors including, but not limited to: whether the applicant has had a security guard, special security guard or armed security guard instructor, or security guard training school application or renewal application denied for cause, or is the instructor at a school where the security guard school application or renewal application of such school has ever been denied for cause pursuant to Part 6028 of this Title, and the date and nature of such denial; whether the applicant has had a security guard, special security guard or armed security guard instructor certification, or security guard training school approval suspended or revoked, or is the instructor at a school where the approval of such school has ever been or is suspended or revoked pursuant to Part 6028 of this Title, and the date and nature of such suspension or revocation; whether the applicant 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 applicant.

#### 6029.5-A Exemptions.

Some of the requirements for the existing or prospective security guard, special security guard or armed security guard instructor may be waived by the commissioner if the existing or



prospective security guard, special security guard or armed security guard instructor is employed with or at a public or private educational institution operating under the purview of the New York State Education Department or an equivalent agency in another jurisdiction, a public entity, an entity employing security guards on a proprietary basis for its own use, or an educational institution conducted on a not-for-profit basis by firms or organizations, provided that such instruction is offered at no charge; or is an employed police or peace officer in good standing.

#### 6029.6 Term and renewal of certifications.

(a) An instructor certification granted by the commissioner in accordance with this Part shall be valid only in the possession of the instructor to which it is issued for a term of five years from the date of issuance, unless revoked by the commissioner pursuant to section 6029.7 of this Part prior to its expiration.

(b) An instructor certification granted by the commissioner in accordance with this Part may be renewed if the instructor continues to meet criteria established by the commissioner. The council or the commissioner may visit any security guard training school and conduct an evaluation of the instructor applicant.

(c) The certified instructor must submit no more than sixty nor less than thirty days prior to the expiration date of the instructor certification a completed Security Guard Instructor Renewal Application form prescribed by the commissioner for instructor of security guard courses and an application fee as determined by the schedule of fees prescribed by the commissioner in section 6029.9 of this Part.

(d) An instructor certification which was not renewed or which expired may be reissued only in a manner prescribed by the commissioner.

(e) The certification of a security guard instructor may not be renewed for causes including, but not be limited to: the 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 the instruction provided by a certified instructor ; the instructor is convicted of a felony or misdemeanor and the conduct constituting the offense was performed in the name of or in behalf of an approved security guard training school; or in the discretion of the commissioner, conduct of the instructor bears on the integrity of the division; the security guard instructor 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 instructor 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 instructor, via certified mail, a written notice of his or her intent to deny the renewal of the certification and the reasons for such action.

(g) Within 15 days of the receipt of said notice, the instructor may forward a written request to the commissioner for a hearing to be held by the council to consider the denial of the instructor certification. The commissioner shall forward the request to the council. The failure of the individual to timely request a hearing shall not preclude the commissioner from denying the renewal of the certification.

(h) Such hearing shall be held at the next meeting of the council. At least 15 days before the next meeting, the council shall give to the instructor written notice of the time and place of said meeting, wherein a hearing shall be held to consider the denial of the instructor certification. The instructor may be represented at the hearing by counsel and may produce any evidence to support his or her 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 individual 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 sections 6029.3(c) and 6029.5(c) of this Part and other factors, and upon a showing of corrective action.

#### 6029.7 Suspension and revocation of certification.

(a) The commissioner may move to suspend or revoke the instructor certification pursuant to this Part at any time. Upon the suspension of the instructor certification, the commissioner shall either:

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

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

(b) Suspension.

(1) The certification of a security guard instructor may be suspended for causes including, but not be limited to: the 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 the instruction provided by a instructor; the instructor is charged with a felony or misdemeanor and the conduct constituting the offense was performed in the name of or in behalf of an approved security guard training school, or, in the discretion of the commissioner, the conduct of the instructor bears on the integrity of the division; the security guard instructor 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 instructor, via certified mail, a written notice to cure in response to paragraph one of this subdivision. Upon receipt of such notice, the certification of the instructor shall be suspended and such instructor shall not instruct any approved security guard training course or program.

(3) No later than fifteen (15) days of the receipt of said notice, the instructor may address the concerns raised. The instructor 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 instructor certification.

(4) Where the instructor has been charged with a felony or misdemeanor, the commissioner shall send the instructor, via certified mail, a written notice of suspension pending the disposition of the case. Upon receipt of such notice, the certification of the instructor shall be suspended and such instructor shall not instruct any approved security guard training course or program.

(c) Revocation.

(1) The certification of a security guard instructor may be revoked for causes including, but not be limited to: the 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 the instruction provided by an instructor; the instructor is convicted of a felony or misdemeanor and the conduct constituting the offense was performed in the name of or in behalf of an approved security guard training school, or, in the discretion of the commissioner, the conduct of the instructor bears on the integrity of the division; the security guard instructor 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; an instructor, after receipt of a notice of suspension, continues to conduct security guard training courses; or any other cause for which the commissioner deems the revocation necessary.

(2) The commissioner shall send the instructor, via certified mail, a written notice of his or her intent to revoke the certification and the reasons for such action. Upon receipt of such notice, the certification of the instructor shall be suspended, or will remain suspended, and such instructor shall not instruct any approved security guard training course or program.

(3) Within fifteen (15) days of the receipt of said notice, the instructor may forward a written request to the commissioner for a hearing to be held by the council to consider the revocation of the instructor certification. The commissioner shall forward the request to the council. The failure of the individual to timely request a hearing shall not preclude the commissioner from revoking the certification.

(4) Such hearing shall be held at the next meeting of the council . At least 15 days before the next meeting, the council shall give to the instructor written notice by mail of the time and place of said meeting, wherein a hearing shall be held to consider the revocation of the instructor certification. The instructor may be represented at the hearing by counsel and may produce any evidence to support his or her 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 individual 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 following the decision, depending upon factors enumerated in sections 6029.3(c) and 6029.5(c) 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 instructor certification pending revocation if the violation or misconduct warrants such action.

(1) To invoke the suspension, the commissioner shall provide the instructor with a notice of intent to revoke the instructor certification and the reasons for such action on a form prescribed by the commissioner.

(2) Upon receipt of such notice, the instructor certification shall be suspended and such instructor shall not conduct any approved security guard training course or program.

(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 instructor certification.

#### 6029.8 Conducting a security guard training course.

(a) No security guard training course shall be conducted which does not meet the minimum standards as set forth in Part 6027 of this Title.

(b) Only instructors certified pursuant to the provisions of this Part are allowed to instruct a security guard training course or program at the school.

(c) The certified instructor shall ensure that the security guard training course is compliant with applicable laws, rules and regulations, division requirements, and policies and procedures.

(d) The certified instructor shall adhere to and engage in proper business practices.

(e) 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.

(f) The council or the commissioner may conduct periodic unscheduled inspections to monitor compliance with applicable laws, rules and regulations, division requirements, and policies and procedures.

#### 6029.9 Schedule of fees.

(a) The following application fee will apply to:

Initial application for security guard instructor certification, special security guard instructor certification, or armed security guard instructor certification --\$500.00

Instructor renewal --\$250.00

(b) Persons who maintain a valid security guard instructor certification who subsequently apply for armed security guard instructor certification shall be subject to the renewal fee at the time of initial application for armed security guard instructor certification.

(c) 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.