

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 48 PRIVATE LAW ENFORCEMENT PRACTITIONERS
PART 2 REQUIREMENTS FOR LICENSURE AND REGISTRATION

16.48.2.1 ISSUING AGENCY: Regulation and Licensing Department.
[16.48.2.1 NMAC - Re-pr, 16.48.2.1 NMAC, 9/24/2008; A, 10/26/2021]

16.48.2.2 SCOPE: All individuals and business entities that apply for licensure, registration or approval under the Private Investigations Act.
[16.48.2.2 NMAC - Re-pr, 16.48.2.2 NMAC, 9/24/2008; A, ___ / ___ /2022]

16.48.2.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the Private Investigations Act, Section 61-27B-5 NMSA 1978.
[16.48.2.3 NMAC - Re-pr, 16.48.2.3 NMAC, 9/24/2008; A, 10/26/2021]

16.48.2.4 DURATION: Permanent.
[16.48.2.4 NMAC - Re-pr, 16.48.2.4 NMAC, 9/24/2008]

16.48.2.5 EFFECTIVE DATE: _____ unless a later date is cited in the history note at the end of a section.
[16.48.2.5 NMAC - Re-pr & A, 16.48.2.5 NMAC, 9/24/2008; A, ___ / ___ /2022]

16.48.2.6 OBJECTIVE: To establish the procedures and outline the documents and information necessary to complete the application process for licensure, ~~and~~ registration, and security guard instructor approval.
[16.48.2.6 NMAC - Re-pr, 16.48.2.6 NMAC, 9/24/2008; A, 10/26/2021; A, ___ / ___ /2022]

16.48.2.7 DEFINITIONS: Please refer to 16.48.1.7 NMAC in addition to the definitions within this part.

A. “Chemical agents” means tear gas or any other certifiable non-lethal chemical agents used for the intent to restrain and control unruly or combative subjects for the purposes of safety to the security officer and the public.

B. “Defensive impact tools” means straight baton, expandable baton, side handle baton or other defensive impact tools used for the intent to restrain and control unruly or combative subjects for the purposes of safety to the security officer and the public.

C. “Electronic non-lethal devices” means tasers or other certifiable devices used for the intent to restrain and control unruly or combative subjects for the purposes of safety to the security officer and the public.

D. “One-year verifiable training” means proof of experience that has been acquired within the five years preceding the filing of the application with the department which shall consist of not less than 1,000 hours of actual work performed in the respective area of licensure or registration sought after.

E. “Restraint and control devices” means handcuffs or similar certifiable devices used for the intent to restrain and control unruly or combative subjects for the purposes of safety to the security officer and the public.
[16.48.2.7 NMAC - Re-pr & A, 16.48.2.7 NMAC, 9/24/2008; A, 1/15/2015; A, 1/15/2019]

16.48.2.8 BOND AND GENERAL LIABILITY INSURANCE REQUIREMENT:

A. All private patrol companies and private investigation companies seeking to obtain or retain a license under the provisions of the Private Investigations Act shall file with the department and retain in full force and effect, a surety bond in the amount of ten thousand dollars (\$10,000) executed by a surety company authorized to do business in this state on a form prescribed by the department.

B. The owner or the chief executive officer of a private investigation company or private security company that provides personal protection or bodyguard services or the owner or the chief executive office of a private patrol company shall maintain a general liability certificate of insurance in the amount of not less than one million dollars (\$1,000,000).

C. A surety bond in the amount of ten thousand dollars (\$10,000) or a general liability certificate of insurance executed and filed with the department pursuant to the Private Investigations Act shall remain in force until the surety company issuing the bond or the certificate has terminated future indemnity by notice to the department.

D. Any failure to furnish and maintain such bond in such form shall be grounds for denial or revocation of any license of a private investigator, private patrol operator, or private investigation company.

E. In the event a bond is offered which varies from the department form the department shall determine whether bond is in substantial conformance with the Private Investigations Act and department rules.

F. The duration of each bond shall, unless sooner terminated in accordance with law, be for the term of the term of the license issued as set forth on the face thereof and 30 days thereafter.

G. Such bond shall also be filed and maintained for each period of renewal of license and the duration thereof shall be for the renewal period specified on the face of the license and 30 days thereafter.

H. Any claim filed or made against any private investigator, private patrol operator, or private investigation company shall be reported by him forthwith to his surety company.

I. Upon receipt of notice of any claim made against any private investigator, private patrol operator, or private investigation company the surety insurance company bonding such private investigator, private patrol operator, or private investigation company shall forthwith report the same to the department.

J. All complaints filed, judgments rendered or injunctions issued, whether temporary or final, against any private investigator, private patrol operator, private investigation company or their surety insurance company shall be reported to department, within 10 days after receipt of the same by such private investigator, private patrol operator, private investigation company, surety company, or their agents, attorneys, or employees, together with the name of the court where filed and the name and address of the attorney for claimant, or the claimant if he has no attorney.

K. A private investigator or private patrol operator or private investigation company or licensee or registrant shall furnish the department with any information requested by the department pursuant to a claim or complaint or suit filed alleging a violation of any rule or statute governing private investigators, private patrol operators, private investigation companies, licensees or registrants when requested to do so by the department. Failure to comply with this request may result in disciplinary action. No payment may be made by a surety insurance company pursuant to a claim or complaint filed with the department unless the department directs such payment to be made.

L. The failure to furnish such notice of claims or suits or such information shall be deemed sufficient to revoke or suspend any license of a private investigator, private patrol operator or private investigation company or to deem any bond for such private investigator, private patrol operator or private investigation company insufficient.

M. The department may determine that any claim made or suit filed against any private investigator, private patrol operator or private investigation company has reduced the amount of the bond of such investigator, patrol operator or private investigation company in full force and effect to such extent as the department shall, in its discretion, determine. Any judgment obtained against any private investigator or private patrol operator or private investigation company or their surety insurance company shall be deemed to reduce the amount of their bond insurance in full force and effect by the amount of the judgment. In the event the amount of the bond in full force and effect shall be so reduced, such private investigator or private patrol operator or private investigation company shall, within 10 days, file a new or supplemental bond insurance sufficient to meet the requirements of law as to the amount of bond insurance in full force and effect.

N. If any claim is made or suit filed against any private investigator or private patrol operator or private investigation company for his actions, or the actions of any of his employees, and any portion of such act or acts as a private investigator or private patrol operator or private investigation company took place or occurred during the period for which a bond was in force, such surety shall be deemed liable for the whole of such claim to the extent of the total amount of the bond, provided that if more than one bond was in effect during the performance of all or any part of such acts, the liability shall be pro-rated among such sureties.

[16.48.2.8 NMAC - Re-pr & A, 16.48.2.8 NMAC, 9/24/2008; A, 1/15/2019; A, 10/26/2021]

16.48.2.9 QUALIFICATIONS AND EXPERIENCE REQUIREMENTS FOR APPLICANTS FOR A PRIVATE INVESTIGATOR LICENSE:

A. Applicants for licensure as a private investigator must meet the qualifications and requirements described in Section 61-27B-7 NMSA 1978, and must submit the following:

- (1) a completed application, which includes applicant's:
 - (a) full name;
 - (b) current mailing address;
 - (c) current electronic mail address;
 - (d) date of birth;

- (e) two 2X2 inch recent photographs or an upload of a recent electronic headshot photograph;
 - (f) Certificate in Support of Experience Qualification;
 - (g) signed Release of Information;
 - (h) fingerprints for federal background investigation, see application for specific instructions on submitting fingerprints; and
 - (i) employment record for the most recent five years.
- (2) proof of successfully passing a jurisprudence examination to be administered by the department;
- (3) proof of experience that has been acquired within the five years preceding the filing of the application with the department which shall consist of not less than 6,000 hours of actual work performed in:
- (a) investigation for the purpose of obtaining information with reference to a crime or wrongs done or threatened against the United States;
 - (b) investigation of persons;
 - (c) the location, disposition or recovery of lost or stolen property;
 - (d) the cause or responsibility for fire, losses, motor vehicle or other accidents or damage or injury to persons or property; or
 - (e) securing evidence to be used before a court, administrative tribunal, board or investigating committee or for a law enforcement officer;
- (4) non-refundable license fee as set forth in Part 5; and
- (5) criminal history background check as set forth in Subsection C of 16.48.2.9 NMAC.

B. Years of qualifying experience and the precise nature of that experience shall be substantiated by written certification from employers on a form provided by the department and shall be subject to independent verification by the department as it deems warranted. In the event of inability of applicants to supply such written certifications from employers in whole or in part, applicants may offer other written certifications from others than employers covering the same subject matter for consideration by the department. The burden of proving necessary experience is on the applicant.

C. Pursuant to Section 61-27B-34 of the act, NMSA 1978, all applicants for initial issuance of a private investigator license in New Mexico shall be required to be fingerprinted to establish positive identification for a federal criminal history background check pursuant to the instructions within the application provided by the department.

D. If applicant elects to be firearm certified, proof of successfully completing mandatory firearms training required by 16.48.4.8 NMAC and completing a psychological evaluation pursuant to Subsection C of 16.48.2.19 NMAC.

[16.48.2.9 NMAC - Re-pr & A, 16.48.2.9 NMAC, 9/24/2008; A, 5/1/2010; A, 1/15/2019; A, 10/26/2021]

16.48.2.10 QUALIFICATIONS AND EXPERIENCE REQUIREMENTS FOR APPLICANTS FOR A PRIVATE INVESTIGATION COMPANY LICENSE:

A. An application for licensure as a private investigation company must be submitted by a person that provides the following:

- (1) completed application which includes the person's:
 - (a) full name;
 - (b) current electronic mail address;
 - (c) date of birth;
 - (d) full business name as sole proprietorship, partnership, limited liability company, or corporation;
 - (e) current business mailing address and physical business address;
 - (f) signed Release of Information for each owner, officer, and director;
 - (g) full name of each business owner, officer, director, partner, or member of the business entity; and
 - (h) completed and signed Attachment A for each owner, officer, and director.
- (2) Proof of compliance with 16.48.2.8 NMAC;
- (3) proof of an owner or a licensed private investigations manager who is licensed as a private investigator and who certifies that they will manage the daily operations of the private investigation company;

- (4) proof of a physical location in New Mexico where records are maintained and made available for department inspection;
 - (5) proof of a New Mexico registered agent if the applicant is a private investigation company located outside of New Mexico;
 - (6) non-refundable license fee as set forth in Part 5;
 - (7) criminal history background check as set forth in Subsection C of 16.48.2.10 NMAC; and
 - (8) proof of New Mexico Residency for the private investigations manager.
- B.** The owner or the chief executive officer of a private investigation company that provides personal protection or bodyguard services shall provide proof of an active and current general liability certificate of insurance in the amount of no less than one million dollars.
- C.** Pursuant to Section 61-27B-34 of the act, all applicants, including all owners, officers, directors, partners, or members for initial issuance of a private investigation company license in New Mexico shall be required to be fingerprinted to establish positive identification for a federal criminal history background check. A legal business entity must submit a fingerprint packet for each owner, and officers or directors pursuant to the instructions within the application provided by the department.
[16.48.2.10 NMAC - Re-pr & A, 16.48.2.10 NMAC, 9/24/2008; A, 5/1/2010; A, 1/15/2019; A, 10/26/2021]

16.48.2.11 QUALIFICATIONS AND EXPERIENCE REQUIREMENTS FOR APPLICANTS FOR A PRIVATE INVESTIGATION MANAGER LICENSE: Applicants for licensure as a private investigations manager must submit the following:

- A.** proof of a current license in good standing as a private investigator;
- B.** proof of successfully passing a jurisprudence examination to be administered by the department;
- C.** proof of employment with the private investigation company that the applicant is being licensed to manage;
- D.** a completed application which includes the applicant's:
 - (1) full name;
 - (2) current mailing address;
 - (3) current electronic mail address;
 - (4) employer business name, phone contact information, and physical address;
 - (5) employer company license number;
 - (6) two, 2X2 inch recent photographs or an upload of a recent electronic headshot photograph;
 - (7) signed Release of Information;
 - (8) completed certificate of employment or contract, completed by the company owner; and
 - (9) proof of New Mexico residency.
- E.** non-refundable license fee as set forth in Part 5;
- F.** pursuant to Section 61-27B-34 of the act, NMSA 1978, all applicants for initial issuance of a private investigations manager license in New Mexico shall be required to be fingerprinted to establish positive identification for a federal criminal history background check pursuant to the instructions within the application provided by the department;
- G.** if applicant elects to be firearm certified, proof of successfully completing mandatory firearms training required by 16.48.4.8 NMAC and completing a psychological evaluation pursuant to Subsection C of 16.48.2.19 NMAC, or a letter stating they will not be carrying a firearm if they elect not to do so.
[16.48.2.11 NMAC - Re-pr & A, 16.48.2.11 NMAC, 9/24/2008; A, 5/1/2010; A, 1/15/2019; A, 10/26/2021]

16.48.2.12 QUALIFICATIONS AND EXPERIENCE REQUIREMENTS FOR APPLICANTS FOR A PRIVATE INVESTIGATIONS EMPLOYEE REGISTRATION:

- A.** On or after July 1, 2007, every individual who seeks employment or is currently employed as a private investigations employee or who provides services on a contract basis to a private investigation company shall file an application for registration as a private investigations employee with the department.
- B.** Applicants for registration as a private investigations employee must submit the following:
 - (1) completed application, which includes the applicant's:
 - (a) full name;
 - (b) current mailing address;
 - (c) current electronic mail address;
 - (d) date of birth;

- (e) employer business name, phone contact information, and physical address;
 - (f) employer company license number;
 - (g) two, 2X2 inch recent photographs or an upload of a recent electronic headshot photograph; and
 - (h) signed Release of Information
- (2) non-refundable registration fee as set forth in Part 5;
- (3) proof of successfully passing a jurisprudence examination to be administered by the board;
- (4) proof of employment or contract with a private investigation company to provide investigation services for, a private investigation company, under the direct control and supervision of a private investigator; and
- (5) criminal history background check as set forth in Subsection C of 16.48.2.12 NMAC.

C. Pursuant to Section 61-27B-34 of the act, NMSA 1978, all applicants for initial issuance of a private investigations employee registration in New Mexico shall be required to be fingerprinted to establish positive identification for a state and federal criminal history background check pursuant to the instructions within the application provided by the department.

D. If applicant elects to be firearm certified, proof of successfully completing mandatory firearms training required by 16.48.4.8 NMAC and completing a psychological evaluation pursuant to Subsection C of 16.48.2.19 NMAC, or a letter stating they will not be carrying a firearm if they elect not to do so. [16.48.2.12 NMAC - Re-pr & A, 16.48.2.12 NMAC, 9/24/2008; A, 5/1/2010; A, 1/15/2019; A, 10/26/2021]

16.48.2.13 QUALIFICATIONS AND EXPERIENCE REQUIREMENTS FOR APPLICANTS FOR A PRIVATE PATROL OPERATOR LICENSE:

- A.** Applicants for licensure as a private patrol operator must submit the following:
- (1) completed application, which includes the applicant's:
 - (a) full name;
 - (b) mailing address;
 - (c) electronic mail address;
 - (d) date of birth;
 - (e) employment record for the most recent five years;
 - (f) signed release of information; and
 - (g) certificate in support of experience qualification to be completed by former or present employer.
 - (2) proof of successfully passing a jurisprudence examination to be administered by the department;
 - (3) proof of experience of actual work performed as a security guard consisting of not less than 4,000 hours of actual work performed as a guard, watchman, or patrolman or an equivalent position, one year of which shall have been in a supervisory capacity; the experience shall have been acquired within five years preceding the filing of the application with the department; years of qualifying experience and the precise nature of that experience shall be substantiated by written certification from the applicant's employers and shall be subject to independent verification by the department as it determines is warranted; the burden of proving necessary experience is on the applicant;
 - (4) non-refundable application fee as set forth in Part 5; and
 - (5) criminal history background check as set forth in Subsection C of 16.48.2.13 NMAC.

B. Pursuant to Section 61-27B-34 of the act, NMSA 1978, all applicants for initial issuance of a private patrol operator license in New Mexico shall be required to be fingerprinted to establish positive identification for a federal criminal history background check pursuant to the instruction within the application provided by the department.

C. If applicant elects to be firearm certified, proof of successfully completing mandatory firearms training required by 16.48.4.8 NMAC and completing a psychological evaluation pursuant to Subsection C of 16.48.2.19 NMAC, or a letter stating they will not be carrying a firearm if they elect not to do so. [16.48.2.13 NMAC - Re-pr & A, 16.48.2.13 NMAC, 9/24/2008; A, 5/1/2010; A, 1/15/2019; A, 10/26/2021]

16.48.2.14 QUALIFICATIONS AND EXPERIENCE REQUIREMENTS FOR APPLICANTS FOR A PRIVATE PATROL COMPANY LICENSE:

A. An application for licensure as a private patrol company must be submitted by an individual that provides the following:

- (1) completed application which includes the person's:
 - (a) full name;
 - (b) current electronic mail address;
 - (c) date of birth;
 - (d) full business name as sole proprietorship, partnership, limited liability company, or corporation;
 - (e) current business mailing address and physical business address;
 - (f) signed release of information for each owner, officer, and director;
 - (g) full name of each business owner, officer, director, partner, or member of the business entity;
 - (h) completed and signed Attachment A for each owner, officer, and director;
 - (i) uniform description and photographs of uniforms; and
 - (j) proof of New Mexico residency for the private patrol operations manager.
- (2) proof of an owner licensed as a private patrol operator or registered as a level three security guard or proof of an individual licensed as a private patrol operations manager who certifies they will manage the daily operations of the private patrol company;
- (3) proof of a physical location in New Mexico where records are maintained and made available for department inspection;
- (4) proof of a New Mexico registered agent if the applicant is a private patrol company located outside of New Mexico; and
- (5) criminal history background check as set forth in Subsection C of 16.48.2.14 NMAC.

B. Proof of compliance with 16.48.2.8 NMAC.

C. Pursuant to Section 61-27B-34 of the act, NMSA 1978, all applicants for initial issuance of a private patrol company license in New Mexico shall be required to be fingerprinted to establish positive identification for a federal criminal history background check. A legal business entity must submit a fingerprint packet for each owner, and officers or directors pursuant to the instructions within the application provided by the department.

[16.48.2.14 NMAC - Re-pr & A, 16.48.2.14 NMAC, 9/24/2008; A, 5/1/2010; A, 1/15/2019; A, 10/26/2021]

16.48.2.15 QUALIFICATIONS AND EXPERIENCE REQUIREMENTS FOR APPLICANTS FOR A PRIVATE PATROL OPERATIONS MANAGER LICENSE: Applicants for licensure as a private patrol operations manager must submit the following:

- A.** proof of a current license in good standing as a private patrol operator or a registration as a level three security guard;
- B.** proof of successfully passing a jurisprudence examination to be administered by the department;
- C.** proof of employment with the private patrol company that the applicant is being licensed to manage;

- D.** completed application which includes the following:
 - (1) full name;
 - (2) date of birth;
 - (3) mailing address;
 - (4) electronic mail address;
 - (5) two, 2X2 inch recent photographs or an upload of a recent electronic headshot photograph;
 - (6) private patrol company business name and physical address;
 - (7) private patrol company license number;
 - (8) certificate of employment signed by the employer;
 - (9) signed release of information; and
 - (10) proof of New Mexico residency.

E. non-refundable application fee as set forth in Part 5; and

F. pursuant to Section 61-27B-34 of the act, NMSA 1978, all applicants for initial issuance of a private patrol operations manager license in New Mexico shall be required to be fingerprinted to establish positive identification for a federal criminal history background check pursuant to the instructions within the application provided by the department.

[16.48.2.15 NMAC - Re-pr & A, 16.48.2.15 NMAC, 9/24/2008; A, 5/1/2010; A, 10/26/2021]

16.48.2.16 QUALIFICATIONS AND EXPERIENCE REQUIREMENTS FOR APPLICANTS FOR A POLYGRAPH EXAMINER LICENSE:

- A.** Applicants for licensure as a polygraph examiner must submit the following:
- (1) completed application which includes the following, applicant's:
 - (a) full name;
 - (b) date of birth;
 - (c) mailing address;
 - (d) electronic mail address;
 - (e) two, 2X2 inch recent photographs or an upload of a recent electronic headshot photograph;
 - (f) list of states in which you are or have been licensed in another jurisdiction;
 - (g) signed release of information; and
 - (h) proof of successfully passing a jurisprudence exam administered by the department.
 - (2) proof of graduation from an accredited polygraph examiners course approved by the department;
 - (3) proof of:
 - (a) completing a probationary operational competency period and passing an examination of ability approved by the department to practice polygraphy; or
 - (b) holding, for a minimum of two years immediately preceding the date of application, a current active license to practice polygraphy in another jurisdiction whose standards are equal to or greater than those in New Mexico; the applicant must have no pending disciplinary actions and no formal disciplinary actions issued against the license in the last five years;
 - (4) non-refundable application fee as set forth in Part 5; and
 - (5) criminal history background check as set forth in Subsection C of 16.48.2.16 NMAC.
- B.** Pursuant to Section 61-27B-34 of the act, NMSA 1978, all applicants for initial issuance of a polygraph examiner license in New Mexico shall be required to be fingerprinted to establish positive identification for a federal criminal history background check pursuant to the instructions within the application provided by the department.
- C.** Probationary operational competency period.
- (1) During the probationary period, consisting of six months, the polygraph examinations administered by the provisional licensee shall be reviewed for operational competency by a licensed polygraph examiner appointed by the superintendent to serve as a sponsor for the provisional licensee. During the probationary period, the provisional licensee must conduct a minimum of 30 polygraph examinations, a minimum of five of which must be examinations, two of the "specific" examinations, and three of the "screening type" examinations must be performed in the presence of his or her sponsor, or recorded in their entirety for review by the sponsor or the superintendent. In the case of an applicant who conducts only "specific" examinations, a minimum of five "specific" examinations must be conducted in the presence of his or her sponsor, or recorded in their entirety for review by the sponsor appointed by the superintendent.
 - (2) The sponsor appointed shall submit a progress report regarding the progress of the provisional licensee every 60 days on forms provided by the department.
 - (3) If an unsatisfactory report is submitted, the sponsor or the superintendent shall review the polygraph examinations administered by the provisional licensee for operational competency. Upon such review, the superintendent at his or her discretion may revoke the provisional license or take such action as it deems necessary to assure operational competency. Any revocations under this subsection shall be subject to the Uniform Licensing Act, Section 61-1-1 et. seq., NMSA 1978.
 - (4) Under successful completion of a written examination, a provisional license may be issued.
 - (5) The superintendent may at any time review the polygraph examinations administered by the provisional licensee for operational competency for any reason.

[16.48.2.16 NMAC - Re-pr & A, 16.48.2.16 NMAC, 9/24/2008; A, 08/30/09; A, 5/1/2010; A, 1/15/2019; A, 10/26/2021]

16.48.2.17 LEVEL ONE SECURITY GUARD APPLICANT QUALIFICATIONS AND EXPERIENCE REQUIREMENTS:

A. Every individual seeking employment or employed as a level one security guard shall file an application for registration with the department.

B. Applicants for registration as a level one security guard shall submit the following:

- (1) a completed application that includes the applicant's:
 - (a) full name;
 - (b) date of birth;
 - (c) mailing address;
 - (d) electronic mail address;
 - (e) two, 2X2 inch recent photographs or an upload of a recent electronic headshot
- (f) signed release of information; and
- (g) proof of successfully passing a jurisprudence exam administered by the

photograph;

department.

(2) non-refundable registration fee as defined in 16.48.5 NMAC;

(3) proof of completing a department approved training program as defined in Subsection D of 16.48.2.17 NMAC prior to being placed on a guard post for the first time as a level one security guard; that training may be provided by:

(a) a public educational institution in New Mexico or an educational institution licensed by the higher education department pursuant to the Post-Secondary Educational Institution Act (21-23-1 NMSA 1978);

(b) an in-house training program provided by a licensed private patrol company using a curriculum provided by the department and taught by an instructor who has been approved by the superintendent; or

(c) any other department-approved educational institution using a curriculum approved by the department and taught by an instructor who has been approved by the superintendent.

C. BACKGROUND CHECK: Pursuant to Section 61-27B-34 of the act, NMSA 1978, all applicants for initial issuance of a level one security guard registration in New Mexico shall be required to be fingerprinted to establish positive identification for a federal criminal history background check pursuant to the instructions within the application provided by the department.

D. TRAINING REQUIREMENTS: An eight hour curriculum is the minimum training required and must be completed within twelve months prior to application for security guard level one registration. The training shall be taught by a department approved instructor that has been approved by the superintendent. Training and examination shall be conducted pursuant to the curriculum provided by the department. Training shall be taught by an in-person instructor. Curriculum may be reviewed by the department at the direction of the superintendent. This rule adopts and hereby incorporates by reference the *Level One Training Curriculum* first edition 2020 approved by the advisory board on February 26, 2021, and with the same effective date of this rule.

[16.48.2.17 NMAC - Re-pr & A, 16.48.2.17 NMAC, 9/24/2008; A, 5/1/2010; A, 1/15/2015; A, 1/15/2019; A, 10/26/2021]

16.48.2.18 LEVEL TWO SECURITY GUARD APPLICANT QUALIFICATIONS AND EXPERIENCE REQUIREMENTS:

A. Every individual seeking employment or employed as a level two security guard shall file an application for registration with the department. To carry a specific endorsement weapon, not including a firearm, will require successful completion of the specific weapon curriculum as defined in Subsection E of 16.48.2.18 NMAC.

B. Applicants for registration as a level two security guard shall submit the following:

- (1) completed application that includes the applicant's:
 - (a) full name;
 - (b) date of birth;
 - (c) mailing address;
 - (d) electronic mail address;
 - (e) two, 2X2 inch recent photographs or an upload of a recent electronic headshot
- (f) signed release of information.

photograph; and

- (2) non-refundable registration fee as defined in 16.48.5 NMAC;
- (3) proof of a current registration in good standing as a level one security guard or proof of completing department approved level one security guard training;
- (4) achievement of a passing score of not less than ninety percent on the board approved jurisprudence examination, provided by the board, covering the Private Investigations Act and the rules;
- (5) proof of completing a department approved weapon training program as defined in Subsection D of 16.48.2.18 NMAC for level two security guard training prior to being placed on a guard post for the first time as a level two security guard; that training may be provided by:
 - (a) a public educational institution in New Mexico or an educational institution licensed by the higher education department pursuant to the Post-Secondary Educational Institution Act 21-23-1 NMSA 1978;
 - (b) an in-house training program provided by a licensed private patrol company using a curriculum provided by the department and taught by an instructor who has been approved by the superintendent;
 - (c) the New Mexico law enforcement academy; or
 - (d) any other department-approved educational institution using a curriculum approved by the department and taught by an instructor who has been approved by the superintendent.

C. BACKGROUND CHECK: Pursuant to Section 61-27B-34 of the act, NMSA 1978, all applicants for initial issuance of a level two security guard registration in New Mexico shall be required to be fingerprinted to establish positive identification for a federal criminal history background check pursuant to the instructions within the application provided by the department.

D. TRAINING REQUIREMENTS: A 20 hour curriculum is the minimum training required and must be completed within twelve months prior to application for security guard level two registration. The training shall be taught by a department approved instructor that has been approved by the superintendent. Training and examination shall be conducted pursuant to the curriculum provided by the department. Training shall be taught by an in-person instructor. Curriculum may be reviewed by the department at the direction of the superintendent. This rule adopts and hereby incorporates by reference the *Level Two Training Curriculum* first edition 2020 approved by the advisory board on February 26, 2021, and with the same effective date of this rule.

E. ADDITIONAL ENDORSEMENTS: An applicant for weapon endorsement must successfully complete training for the specific weapon endorsement. The following endorsement for level two applicants for electronic non-lethal device training shall be done in accordance with manufacturer requirements for any device carried or utilized by the registrant.
[16.48.2.18 NMAC - Re-pr & A, 16.48.2.18 NMAC, 9/24/2008; A, 5/1/2010; A, 1/15/2015; A, 1/15/2019; A, 10/26/2021]

16.48.2.19 LEVEL THREE SECURITY GUARD APPLICANT QUALIFICATIONS AND EXPERIENCE REQUIREMENTS:

A. Every individual seeking employment or employed as a level three security guard or level three armored vehicle security guard shall file an application for registration with the department.

B. Applicants for registration as a level three security guard shall submit the following:

- (1) completed application that includes the applicant's:
 - (a) full name;
 - (b) date of birth;
 - (c) mailing address;
 - (d) electronic mail address;
 - (e) two, 2X2 inch recent photographs or an upload of a recent electronic headshot photograph; and
 - (f) signed Release of Information.

- (2) non-refundable registration fee as defined in 16.48.5 NMAC;
- (3) copy of a current registration in good standing as a level two security guard or proof of completing department approved level one and level two security guard training;
- (4) achievement of a passing score of not less than ninety percent on the board approved jurisprudence examination, provided by the board, covering the Private Investigations Act and the rules;
- (5) proof of completing a department approved firearm training program as defined in Subsection C of 16.48.2.19 NMAC prior to being placed on a guard post for the first time as a level three security guard; that training must be provided by:

(a) a public educational institution in New Mexico or an educational institution licensed by the higher education department pursuant to the Post-Secondary Educational Institution Act;

(b) an in-house training program provided by a licensed private patrol company using a curriculum provided by the department and taught by an instructor who has been approved by the superintendent;

(c) the New Mexico law enforcement academy; or

(d) any other department-approved educational institution using a curriculum approved by the department and taught by an instructor who has been approved by the superintendent;

(9) proof of being firearm certified by an instructor recognized and certified by the New Mexico law enforcement academy or the national rifle association (NRA) law enforcement activities division;

(10) proof of level two weapon endorsement or proof of completing department approved weapon training as defined in Subsection E of 16.48.2.18 NMAC; and

(11) successful completion of a psychological evaluation as prescribed by the department to determine suitability for carrying firearms.

C. PSYCHOLOGICAL EVALUATION

(1) **Requirements:** Prior to certification as a level three security guard in the state of New Mexico, upon initial licensure only, it shall be necessary for each applicant to be examined by a licensed psychologist regarding the individual's mental suitability to carry a firearm within the individual's scope of duty as a licensed level three security guard. Any psychologist licensed and in good standing in the state of New Mexico or other United States jurisdiction, is able to administer the exam.

(a) All psychological evaluations shall be on a form provided by the department and must state if the applicant is recommended or not recommended to carry a firearm. If an applicant is not recommended to carry a firearm, the psychologist shall specify the reason(s) the applicant is not recommended to carry a firearm.

(b) Evaluations cannot be more than one year old for certification purposes.

(c) The original evaluation form shall be signed and transmitted directly to the department within thirty days by the psychologist that performed the psychological evaluation

(d) The applicant knowingly providing false information or knowingly failing to disclose information shall be grounds for denial of licensure.

(e) Any examinee who fails the psychological evaluation shall not complete another psychological evaluation for at least ninety days from the date indicated on the original evaluation form signed and transmitted directly to the department by the psychologist that performed the psychological evaluation. If an examinee fails the evaluation, the department will make an electronic annotation in the candidate's file to ensure compliance with this rule.

(2) **Evaluation standards:** The psychological evaluation shall consist of at least one of the following psychological assessment to include the Minnesota multi-phasic inventory-2 restructured form, the Minnesota Multi-Phasic Inventory 2, or the Personality Assessment Inventory, as well as two additional measures of emotional functioning (Beck Depression Inventory-II, Beck Anxiety Inventory, PTSD Checklist-C).

D. FIREARM TRAINING: A minimum 16 hour curriculum, to include the laws pertaining to firearms and deadly physical force, is the minimum training required and must be completed within twelve months prior to application for security guard level three registration. The training shall be taught by a department approved instructor that has been approved by the superintendent. Training and examination shall be conducted pursuant to the curriculum provided by the department. Training shall be taught by an in-person instructor. Curriculum may be reviewed by the department at the direction of the superintendent. This rule adopts and hereby incorporates by reference the *Level Three Training Curriculum* first edition 2020 approved by the advisory board on February 26, 2021, and with the same effective date of this rule.

E. BACKGROUND CHECK: Pursuant to Section 61-27B-34 of the act, NMSA 1978, all applicants for initial issuance of a level three security guard registration in New Mexico shall be required to be fingerprinted to establish positive identification for a federal criminal history background check pursuant to the instructions within the application provided by the department.
[16.48.2.19 NMAC - Re-pr & A, 16.48.2.19 NMAC, 9/24/2008; A, 11/28/2009; A, 5/1/2010; A, 1/15/2015; A, 1/15/2019; A, 10/26/2021]

16.48.2.20 QUALIFICATIONS AND EXPERIENCE REQUIREMENTS FOR SECURITY GUARD INSTRUCTOR [REGISTRATIONS] APPROVAL: [~~On or after February 28, 2015, every~~] Every individual seeking to be an approved [~~training~~] instructor[;] shall complete an application for approval on a form provided by

the department. ~~[The application shall include, but not be limited to, all of the following information:]~~ The department shall review applications, approve instructors, and maintain a list of current instructor authorized to teach the department's approved curriculum.

A. Proof of professional certification and requirements specific to each level of instruction.

(1) Level One Instructor: ~~[every individual seeking to be an approved training instructor for level one security guards,]~~ an individual shall submit proof of instructor certification related to the Level One Training Curriculum, issued by a law enforcement academy (LEA), a recognized federal government entity, United States military branch, or the federal law enforcement training center (FLETC). ~~[the current]~~ The certification submitted must [take place] have been issued within four years preceding the ~~[instructor approval request; or]~~ date the application is submitted;

(2) Level Two Instructor: ~~[every] an individual [seeking to be a level two security guard instructor, offering training in chemical agents, defensive impact tools, restraint and control devices or electronic non-lethal devices,]~~ must submit proof of approval as a level one instructor [the application shall provide proof of level one instructor requirements] and, shall submit proof of ~~[the]~~ specific weapon instructor certification related to the Level Two Training Curriculum, issued by the weapon manufacturer. ~~[the current]~~ The certification must [take place] have been issued within four years preceding the ~~[instructor approval request; or]~~ date the application is submitted;

(3) Level Three Instructor: ~~[every individual seeking to be a level three security guard instructor offering training in firearms and deadly physical force,]~~ an individual shall submit proof of a firearms instructor certification issued by a law enforcement academy (LEA), a recognized federal government entity, United States military branch, ~~[or]~~ the federal law enforcement training center (FLETC), or the national rifle association law enforcement activities division. The ~~[current]~~ certification must ~~[take place]~~ have been issued within four years preceding the ~~[instructor approval request;]~~ date the application is submitted.

B. Every four years from the approval date or as requested by the department, the instructors must resubmit ~~[current]~~ certification that takes place within four years preceding the renewal request in order to remain approved.

C. Anyone approved as an instructor must complete a minimum of four hours of continuing education specific to instructor development and case law specific to security ~~[during the renewal period]~~ every four years from the approval date. Continuing education may be provided by the department and subject to periodic review. Continuing education for instructors shall not count toward continuing education credit required for renewal of an individual licensure or certification pursuant to 16.48.6.8 NMAC.

[16.48.2.20 NMAC - N, 1/15/2019; A, 10/26/2021; A, ___ / ___ /2022]

16.48.2.21 [RESERVED]

[16.48.2.21 NMAC - Rn, 16.48.2.20 NMAC, 1/15/2019; Repealed, 10/26/2021]

16.48.2.22 CESSATION OF LICENSE BUSINESS: A registrant or licensee subject to the Private Investigations Act who ceases to do business as a registrant or licensee before the registration or license expiration date shall submit written notice of cancellation of his license to the department within 30 days of cessation of such business.

[16.48.2.22 NMAC - Rn, 16.48.2.21 NMAC, 1/15/2019]

16.48.2.23 [RESERVED]

[16.48.2.23 NMAC - Rn, 16.48.2.22 NMAC, 1/15/2019; Repealed, 10/26/2021]

16.48.2.24 [RESERVED]

[16.48.2.24 NMAC - Rn, 16.48.2.23 NMAC, 1/15/2019]

16.48.2.25 RECIPROCITY:

A. An investigator licensed in another state may conduct business in New Mexico only under the circumstances indicated below:

- (1) the investigation must be initiated in the investigator's home state;
- (2) the investigator may spend no more than 30 days per case while conducting an investigation in another state;
- (3) the investigator is prohibited from soliciting business while in another state and from establishing a business or setting up residence while conducting an investigation in that state.

B. An applicant for licensure or registration by reciprocity may not engage in the practice of private investigations, private patrol operator, polygraph examiners or security guard in New Mexico until approval for licensure by reciprocity has been given and the department has issued an initial license.

C. Acceptance of a reciprocity applicant for licensure or registration is subject to department approval. All applicants for licensure or registration by reciprocity shall:

~~(1) be of good moral character;~~

(2) be duly and currently licensed or registered in at least one other state;

(3) have no history of disciplinary action within the last five years against any professional license or registration;

(4) provide proof of having met education and experience requirements in the state of licensure similar to or better than those required in New Mexico.

[16.48.2.25 NMAC - Rn, 16.48.2.24, 1/15/2019; A, ___ / ___ /2022]

16.48.2.26 INCOMPLETE INITIAL APPLICATIONS

A. Initial applications for any license or registration type will expire twelve months from the date the application is stamped "received" by the department.

B. The fingerprint background check required for initial application expires after ninety days from the date it is issued. If the applicant wants to continue with the application process, and the fingerprint background check has expired, the applicant will be required to submit a new fingerprint background check to continue the application process.

C. After the expiration of the twelve month period, applicant will be required to submit a new initial application.

[16.48.2.26 NMAC – N, 10/26/2021]

16.48.2.27 TERM: The term for initial licensure and registration shall be three years.

HISTORY OF 16.48.2 NMAC:

Pre-NMAC History:

The material in this part was derived from that previously filed with the commission of public records - state records center and archives:

AG 68-1 (Rule No. IV), Private Patrol Operator Licenses, filed 4/3/1968.

AG 68-2 (Rule No. V), Private Investigator Licenses, filed 4/3/1968.

AG 69-2 (Rule No. VII), Private Investigators Licenses: Titles, filed 9/17/1969.

AG 70-2 (Rule No. VII), Private Investigators: Fictitious Names and Titles, filed 8/20/1970.

AG 69-3 (Rule No. VIII), Private Investigator Licenses: Interview of Applicant, filed 9/17/1969.

AG 70-3 (Rule No. VIII), Private Investigators: Interview of Applicant, filed 8/20/1970.

AG 70-5 (Rule No. X, Private Investigators: Alcohol Beverages, filed 8/20/1970.

AG 70-7 (Rule No. XII), Private Investigators: Deputy Sheriff Commissions, filed 11/19/1970.

AG 70-8 (Rule NO. XIII), Private Investigators: Cessation of Licensed Business, filed 11/19/1970.

NMLEA Rule #30, Bureau of Private Investigators: Rules and Regulations, filed 4/24/1981.

NMLEA B/PI Rule #1, Bureau of Private Investigators: Rules and Regulations, filed 11/4/1983.

NMLEA Rule #31, Bureau of Polygraphy: Rules and Regulations, filed 6/1/1981.

NMLEA Rule #31, Bureau of Polygraphy: Rules and Regulations, filed 5/27/1983.

NMPA Rule 92-3, Qualifications for Licensure, filed 8/17/1992.

NMPA Rule 92-6, Unauthorized Practice, filed 8/17/1992.

History of Repealed Material:

NMLEA B/PI Rule #1, Bureau of Private Investigators: Rules and Regulations (filed 11/4/1983); NMPA Rule 92-3, Qualifications for Licensure (filed 8/17/1992); and NMPA Rule 92-6, Unauthorized Practice (filed 8/17/1992) all repealed 03/07/08.

This rule expired on July 5, 2008 which was 120 days after its emergency filing on March 7, 2008. The Uniform Licensing Act (Subsection A of Section 61-1-30 NMSA 1978) stipulates that emergency rules cannot remain in effect for more than 120 days unless they are replaced by permanent rules.

Other History:

Those applicable portions of NMLEA B/PI Rule #1, Bureau of Private Investigators: Rules and Regulations (filed 11/4/1983); NMPA Rule 92-3, Qualifications for Licensure (filed 8/17/1992); and NMPA Rule 92-6, Unauthorized Practice (filed 8/17/1992) renumbered, reformatted, and replaced by 16.48.2 NMAC, Requirements for Licensure, effective 3/07/2008.

16.48.2 NMAC, Requirements for Licensure (filed 3/7/2008) was replaced by 16.48.2 NMAC, Requirements for Licensure, effective 9/24/2008.