



State of Arkansas



ARKANSAS STATE POLICE

1 State Police Plaza Drive Little Rock, Arkansas 72209-4822 www.asp.arkansas.gov

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August 22, 2016

To: Whom It May Concern

From: Arkansas State Police

Subject: Proposed Rules: 2016 Updates to Rules for Licensing and Regulation of Private Investigators, Private Security Agencies, Alarm Systems Companies, Polygraph Examiners, and Voice Stress Analysis Examiners

NOTICE OF PROPOSED RULE CHANGES

"2016 Updates to Rules for Licensing and Regulation of Private Investigators, Private Security Agencies, Alarm Systems Companies, Polygraph Examiners, and Voice Stress Analysis Examiners"

Pursuant to Arkansas Code Ann. §§25-15-201 et seq., and other applicable Arkansas laws, NOTICE is hereby given that the Department of Arkansas State Police intends to modify some of the existing rules for the licensing and regulation of Private Investigators, Private Security Agencies, Alarm Systems Companies, Polygraph Examiners, and Voice Stress Analysis Examiners. The Rule Changes are necessary to ensure compliance with Acts 10 & 11 of the Third Extraordinary Session of 2016.

All interested persons are encouraged to present their comments on the Proposed Rules in writing to Sgt. Michael Moyer of the Arkansas State Police at 618-8600 at the Department, One State Police Plaza Drive, Little Rock, Arkansas, 72209, as soon as possible.

If required by A.C.A. § 25-15-204(a)(2)(B), a PUBLIC HEARING will be held on Tuesday, September 13, 2016 at 10:00 am in the Arkansas State Police Commission Room of the Department of the Arkansas State Police ("Department"), located in Little Rock, Arkansas, at One State Police Plaza Drive, at the intersection of I-30 South and Geyer Springs Road. Individuals attending the Public Hearing may appear and present, orally or in writing, statements, arguments, or opinions on the Proposed Rules. All interested persons are asked to be responsible for notifying their personnel and employees about this Public Hearing and Proposed Rules Changes. Persons wishing to testify or persons with questions should notify Sgt. Michael Moyer of the Arkansas State Police at 618-8600 at the Department, One State Police Plaza Drive, Little Rock, Arkansas, 72209, as soon as possible. Attendees are requested to submit intended statements in writing in advance.

A copy of the Proposed Rules Changes can be reviewed on the ASP Internet web site at: http://www.asp.Arkansas.gov or contact the Department. Written opinions and comments will be considered if received at the above address by 4:00 pm September 24, 2016.

DEPARTMENT OF ARKANSAS STATE POLICE
RULES FOR LICENSING AND REGULATION OF PRIVATE INVESTIGATORS,
PRIVATE SECURITY AGENCIES, ALARM SYSTEMS COMPANIES, POLYGRAPH
EXAMINERS, AND VOICE STRESS ANALYSIS EXAMINERS

SECTION 1. TITLE/AUTHORITY/DEFINITIONS

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Rule 1.3. Definitions -

- (1) ABAT - Advanced Burglar Alarm Technician.
- (2) Administrator - the designee of the Director of the Department of Arkansas State Police pursuant to A.C.A. § 17-39-110.
- (3) AFPC - Arkansas Fire Prevention Code.
- (4) Applicant - any person who has submitted a properly completed application to be licensed, credentialed, or commissioned under this chapter to the Department.
- (5) Commission holder – person who is a Commissioned Security Officer (CSO) or Commissioned School Security Officer (CSSO).
- (6) Credential holder – person who is a Credentialed Private Investigator (CPI), Manager (REP), Private Security Officer (PSO), Alarm Systems Technician (AT), Alarm Systems Monitor (AM), Alarm Systems Apprentice (AA), Alarm Systems Agent (AGT), Assistant Training Administrator (ATA), Training Administrator (TA), Training Instructor (TI), or Branch Office Manager.
- (7) Director – of the Arkansas State Police or his or her designee.
- (8) Disqualifying Factor or Offense – any factor or offense that could cause an applicant to be ineligible to hold a license credential or commission.
- (9) Department – the Department of Arkansas State Police.
- (10)ESA - Electronic Security Association (formerly National Burglar and Fire Alarm Association (NBFAA)/National Training School (NTS)).
- (11)FAIM – Fire Alarm Installation Methods.
- (12)Hearing Officer - the appointed presiding officer over cases of adjudication pursuant to the Arkansas Administrative Procedure Act.
- (13) Institution of Instruction (IOI) – a teaching entity that has been approved by the department to instruct licensees, credential holders, and commission holders.
- (14) Licensee - person who has been issued a Class A, Class B, Class C, Class D, Class E-M, Class E Restricted, Class E-S, Class E Unrestricted, Class G, Polygraph Examiners License, or Voice Stress Analysis Examiners License.
- (15) NESAs - National Electronic Security Alliance.
- (16) NICET - National Institute for Certification in Engineering Technologies.

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SECTION 2. APPLICATION

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Rule 2.2. Application form - The application form for a license, credential, or commission shall be issued by the Director and shall include:

- (a) The name, address, place and date of birth, and sex of the applicant;
- (b) The driver's license number and social security number of the applicant;
- (c) A statement as to which license(s), credential(s), or commission(s) the applicant is seeking; and
- (d) Questions related to the applicant's qualifications specified in A.C.A. § 17-39-202, § 17-39-206, § 17-39-304, § 17-40-306, § 17-40-337, or Rule 9.0, Rule 9.1, or Rule 10.4(c) below.

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Rule 2.4. Reciprocity – An applicant who meets the qualifications set forth in A.C.A. § 17-39-205 or § 17-40-353 may obtain an Arkansas license or credential by submission of the required forms, non-refundable application fee, and national and state background check fees. The transfer applicant must also have his or her background check successfully completed through state and federal background check systems.

Rule 2.5. Transfer license, credential, or commission – Individuals who wish to transfer a license, credential, or commission from one company to another must complete the transfer application and submit the required background check and transfer fees. The transfer fee is \$20.00 for alarm systems agents, alarm systems apprentices, alarm systems technicians, alarm systems monitors, and security guards. The transfer fee is \$75.00 for credentialed private investigators.

Rule 2.6. Fingerprinting for initial application - In the event a legible and classifiable set of fingerprints cannot be obtained, as determined by the Department or the Federal Bureau of Investigation, the applicant shall be contacted and shall be required to be fingerprinted again. After two (2) unsuccessful fingerprint card submissions, a name search through the FBI will be conducted. Electronic capture of the fingerprints of the applicant on a device and in a manner approved by the Director is allowed. The Director shall determine the applicant's eligibility for licensing only after successful completion of the FBI fingerprint-based check.

Rule 2.7. Issuance – A license, credential, or commission shall be issued by the Director if, after submission of a complete application:

- (a) The applicant satisfies the qualification requirements for the license, credential, or commission for which he or she is applying; and
- (b) The applicant has had his or her background check successfully completed through state and federal background check systems.

Rule 2.8. Unresolved arrests - If a check of the applicant's criminal records uncovers any unresolved arrest that may lead to the disqualification of the applicant, the applicant shall

obtain a disposition of the open charge and return the disposition to the Department within sixty (60) days. The application will not be processed to completion without the Department having received the disposition information.

Rule 2.9. Prior offenses – the Director of the Department shall deny an application if the applicant has been found guilty or has pleaded guilty or “nolo contendere” to a criminal offense as set forth in A.C.A. § 17-39-202, § 17-39-206, § 17-39-304, § 17-40-306, or § 17-40-337.

(a) A prior conviction will disqualify the applicant even if the conviction has been sealed or expunged; but

(b) A prior conviction will not disqualify an applicant if the applicant has received a pardon for the conviction in accordance with A.C.A. § 16-93-201, et seq.

(i) To qualify for a commission, the pardon must include a provision for full restoration of firearms rights.

(c) A prior conviction listed in A.C.A. § 17-40-337(a)(2)(B)-(C) will not disqualify an applicant for a commission unless the applicant is barred by federal law from owning, receiving, or possessing a firearm.

Rule 2.10. Designated Offenses – Pursuant to A.C.A. § 17-40-306(e), the Department is required to designate the Class A misdemeanors under Arkansas law that constitute disqualifying offenses involving theft, sexual offenses, violence, an element of dishonesty, or a crime against a person. This list shall not be deemed to exclude comparable offenses from another state or comparable offenses in the State of Arkansas that have been renumbered or repealed if such an offense otherwise falls within the requirements of A.C.A. § 17-40-306(d).

(a) Offenses involving theft:

(1) A.C.A. §§ 5-12-102 and 103 – Robbery and Aggravated Robbery;

(2) A.C.A. §§ 5-36-101 to -405 - Theft;

(3) A.C.A. § 5-37-305 – Worthless Checks (Hot Check Law);

(4) A.C.A. § 5-37-402 – Theft of Communication Services;

(5) A.C.A. § 5-39-201 – Residential and Commercial Burglary;

(6) A.C.A. § 5-39-202 – Breaking or Entering;

(7) A.C.A. § 5-39-204 – Aggravated Residential Burglary; and

(8) A.C.A. § 15-32-603 – Timber Theft.

(b) Sexual offenses:

(1) A.C.A. §§ 5-14-101 to -134 – Sexual Offenses;

(2) A.C.A. § 5-16-102 – Voyeurism;

(3) A.C.A. § 5-26-314 – Unlawful Distribution of Sexual Images or Recordings;

(4) A.C.A. §§ 5-27-301 to -307 – Sexual Exploitation of Children;

(5) A.C.A. §§ 5-27-401 to -405 – Use of Children in Sexual Performances;

(6) A.C.A. §§ 5-27-601 to -609 – Computer Crimes Against Minors;

(7) A.C.A. §§ 5-70-101 to -106 – Prostitution; and

(8) A.C.A. §§ 12-12-901 to -927 – Sex Offender Registration.

(c) Offenses involving violence:

(1) A.C.A. §§ 5-10-101 to -106 – Homicide;

(2) A.C.A. §§ 5-13-201 to -203 – Battery;

(3) A.C.A. §§ 5-13-204 to -207, and 211 – Assault;

(4) A.C.A. § 5-13-209 – Abuse of Athletic Official;

- (5) A.C.A. §§ 5-26-303 to -305 – Domestic Battering;
 - (6) A.C.A. §§ 5-26-306 to -309 – Assault on a Family or Household Member;
 - (7) A.C.A. § 5-54-103(a) – Resisting Arrest;
 - (8) A.C.A. § 5-54-104 – Interference with a Law Enforcement Officer;
 - (9) A.C.A. § 5-54-126 – Killing or Injuring Animals Used by Law Enforcement or Search and Rescue Dogs;
 - (10) A.C.A. § 5-62-103 – Cruelty to Animals;
 - (11) A.C.A. § 5-71-201(a)(3) – Riot;
 - (12) A.C.A. § 5-71-211 – Threatening Fire or Bombing;
 - (13) A.C.A. § 5-73-103 – Possession of a Firearm by Certain Persons;
 - (14) A.C.A. § 5-73-104 – Criminal Use of Prohibited Weapons;
 - (15) A.C.A. § 5-73-120 – Carrying Certain Prohibited Weapons;
 - (16) A.C.A. § 5-73-122 – Carrying a Loaded Weapon in a State Building;
 - (17) A.C.A. § 5-73-124 – Use Tear Gas or Pepper Spray Against Law Enforcement; and
 - (18) A.C.A. § 27-50-307 – Negligent Homicide/Involuntary Manslaughter.
- (d) Offenses involving an element of dishonesty:
- (1) A.C.A. § 5-26-203 – Concealing Birth;
 - (2) A.C.A. § 5-27-503 – Possession of Fraudulent or Altered ID;
 - (3) A.C.A. § 5-37-201 to -228 – Forgery and Fraudulent Practices;
 - (4) A.C.A. § 5-37-502 – Marking or Altering Brand of Animal;
 - (5) A.C.A. § 5-37-525 – Defrauding Materialmen;
 - (6) A.C.A. § 5-41-205 – Unlawful Act Involving Electronic Mail;
 - (7) A.C.A. § 5-52-101 to -108 – Corruption in Public Office;
 - (8) A.C.A. § 5-53-103 – False Swearing;
 - (9) A.C.A. § 5-53-110 – Tampering;
 - (10) A.C.A. § 5-53-116 – Simulating Legal Process;
 - (11) A.C.A. § 5-54-102(a)(4) – Obstructing Governmental Operations;
 - (12) A.C.A. § 5-54-105 – Hindering Apprehension or Prosecution;
 - (13) A.C.A. § 5-54-122 – Filing False Reports;
 - (14) A.C.A. § 5-55-103 – Violation of Medicaid Fraud Act;
 - (15) A.C.A. § 5-55-111 – Medicaid Fraud;
 - (16) A.C.A. § 5-64-403 – Controlled Substances – Fraudulent Practices;
 - (17) A.C.A. § 5-71-210 – Communicating a False Alarm;
 - (18) A.C.A. § 7-9-103 – Falsify Petition;
 - (19) A.C.A. § 12-12-504 – Making a False Child Abuse Report;
 - (20) A.C.A. § 12-12-1720(d) – False Report of Adult Abuse;
 - (21) A.C.A. § 12-18-203 – False Report of Child Abuse;
 - (22) A.C.A. § 21-8-403 – Violation of Ethics and Conflict of Interest Laws;
 - (23) A.C.A. § 21-14-111 – Unlawful Act by a Notary;
 - (24) A.C.A. § 23-42-507 – Fraudulent or Deceitful Actions (Securities Fraud);
- and
- (25) A.C.A. § 27-23-114 – Fraudulent Application for CDL.
- (e) Offenses involving a crime against a person:
- (1) A.C.A. § 5-11-104 – False Imprisonment;
 - (2) A.C.A. § 5-13-208 – Coercion;

- (3) A.C.A. § 5-13-210 – Administering to Another, Controlled Substances;
- (4) A.C.A. § 5-16-101 – Video Voyeurism;
- (5) A.C.A. § 5-27-201 to -207 – Endangering the Welfare of an Incompetent Person or Minor;
- (6) A.C.A. § 5-27-221 – Permitting Abuse of a Minor;
- (7) A.C.A. § 5-28-103 – Abuse, Neglect, or Exploitation of Endangered/Impaired Person;
- (8) A.C.A. § 5-41-108 – Unlawful Computerized Communications;
- (9) A.C.A. § 5-53-112 – Retaliation Against a Witness, Informant, or Juror;
- (10) A.C.A. § 5-53-134 – Violation of a Protection Order;
- (11) A.C.A. § 5-71-217 – Cyberbullying;
- (12) A.C.A. § 5-71-229 – Stalking;
- (13) A.C.A. § 9-15-207 – Violation of Order of Protection; and
- (14) A.C.A. § 16-85-714 – Violation of No Contact Order.

Rule 2.11. Incomplete application - Applicants must tender all documents and information necessary for a complete application upon submission. Application deficiencies must be corrected within thirty (30) days. Dispositions must be received within sixty (60) days of request for same or the application shall be voided. Applications not complete after 120 days of submission shall be voided.

Rule 2.12. Denial - If the Director denies an application, he or she shall notify the applicant in writing, stating the grounds for denial. The letter shall be sent certified mail, return receipt requested.

Rule 2.13. New Employees - If a licensee hires an individual required to be licensed, credentialed, or commissioned by the Department, the licensee must file an application to obtain a license, credential, or commission for the employee within 14 days of the hire. The employee may work under the supervision of the licensee or credential holder until the application has been processed by the Department.

- (a) “Supervision” is defined as the licensee or credential holder watching and directing the applicant’s activities while in the immediate presence (line of sight proximity) of the applicant at all times.
- (b) If the required state and federal background check uncovers a potential disqualifying factor in the applicant’s criminal history, the applicant shall immediately cease work upon notification by the Department until the disqualifying factor has been resolved.
- (c) A commissioned applicant cannot work in an armed capacity until the application has been fully processed and the ID card issued.

Rule 2.14. Upgrades – A licensee, credential holder, or commission holder may upgrade the status of his or her license, credential, or commission during the active period of his or her license. In order to receive an upgrade, the company or individual must:

- (a) Complete any additional training required by the new license, credential, or commission;
- (b) Successfully complete the examination required by the new license, credential, or commission;

- (c) Undergo and successfully complete new federal and state background checks;
- (d) Pay any fees associated with the federal and state background checks; and
- (e) Pay the difference between the application fee for the initial license, credential, or commission and the application fee for the new license, credential, or commission.

The upgraded license, credential, or commission will expire on the date the initial license, credential, or commission is due to expire.

Rule 2.15. Fees – All fees for original licensure, registration, transfer, renewal, and delinquencies shall be charged as outlined in A.C.A. § 17-39-207, § 17-39-210, § 17-39-305, and §17-40-302.

SECTION 6. DENIAL, SUSPENSIONS, REVOCATIONS, AND REPRIMANDS

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Rule 6.7. Temporary Suspension – Pending an appeal of a denial, suspension, revocation, or reprimand, the Director may suspend a license, credential, or commission when that person has been convicted in any jurisdiction of a disqualifying offense under A.C.A. § 17-39-202, § 17-39-206, § 17-39-211, § 17-39-304, § 17-39-306, § 17-40-306, § 17-40-344, or § 17-40-350.

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SECTION 8. APPROVED INSTITUTIONS OF INSTRUCTION (IOI) AND TRAINING ADMINISTRATORS

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Rule 8.7. Termination of Training Administrator, Assistant Training Administrator, or Training Instructor - If a TA, ATA, or TI ceases to be employed with an approved IOI for any reason whatsoever, the IOI shall notify the Department in writing within seven (7) days. The business of the IOI may be carried on for thirty (30) days from the date the TA was terminated, pending the qualification of another TA. If the IOI fails to have an approved TA when the thirty (30) day period expires, they shall be subject to decertification by the Administrator.

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SECTION 9. ALARM SYSTEMS COMPANIES

Rule 9.0. Class “E” Unrestricted alarm system company - installs alarm systems, including those systems in structures that are required by the AFPC to have a fire alarm system. An applicant that is qualified for a Class “E” Unrestricted license is also qualified for a Class “E” Restricted license. To be licensed as a Class “E” Unrestricted alarm system company, the applicant must meet the following qualifications:

(a) Manager certification requirements - the manager must have completed all of the courses from one of the following organizations:

- (i) NICET
 - (1) Level III; or
 - (2) Level IV.
- (ii) ESA
 - (1) Level I;
 - (2) Level IIA - Electronics or ABAT; and
 - (3) FAIM.
- (iii) NESAA
 - (1) Electronics; and
 - (2) Fire Installation and wiring codes.

(b) Alarm Technician or Alarm Agent requirements - the applicant must have completed one (1) of the following courses:

- (i) NICET – Level II;
- (ii) ESA - Level I;
- (iii) NESAA – Level I; or
- (iv) Elite CEU – Level I.

Rule 9.1. Class “E” Restricted alarm systems company – installs alarm systems in structures that are not required by the AFPC to have a fire alarm system. To be licensed as a Class “E” Restricted alarm system company, the applicant must meet the following qualifications:

(a) Manager certification requirements – the manager must have completed all of the courses from one of the following organizations:

- (i) NICET – Level II;
- (ii) ESA
 - (1) Level 2A Electronics or ABAT; and
 - (2) Level 2B fire systems installation standards or FAIM; or
- (iii) NESAA
 - (1) Electronics; and
 - (2) Fire Installation and Wiring Codes.

(b) Alarm Technician or Alarm Agent requirements - the applicant must have completed one (1) of the following courses:

- (i) NICET – Level II;
- (ii) ESA – Level I;
- (iii) NESAA – Level I; or
- (iv) Elite CEU – Level I.

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SECTION 10. SECURITY AGENCIES

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Rule 10.5. Phase III - In addition to Phase I and Phase II training, the training requirements for Phase III must be taught to all CSSO applicants and shall consist of thirty-six (36) hours minimum on the following subjects:

- (a) Legal limitations on the use of firearms and on the powers and authority of a CSSO
- (b) Active Shooter Training
 - (i) ALERRT Active Shooter Training or an approved equivalent – this training must comprise at least sixteen (16) of the total thirty-six (36) hours; and
 - (ii) Incorporating security response with law enforcement.
- (c) Active Shooter Simulations and Live-Fire Range Practice – this training must comprise at least ten (10) of the total thirty six (36) hours and include, but not be limited to:
 - (i) Shoot/don't shoot drills;
 - (ii) Rapid situational awareness; and
 - (iii) Simulated live fire weapon training, such as:
 - (1) Simunition;
 - (2) Paintball;
 - (3) Air soft; or
 - (4) Other simulated weapons.
- (d) Trauma Care
 - (i) Wound management pertaining to active shooter situations; and
 - (ii) CPR training and certification.
 - (1) Note: prior CPR and/or wound management training or certification will not be accepted. CPR and wound management training and certification must be taught during Phase III training to ensure that the certification will not expire during the credential period.
- (e) Defensive Tactics
 - (i) Strikes and kicks, including blocks and stunning strikes;
 - (ii) Handcuffing techniques;
 - (iii) Joint manipulation; and
 - (iv) Weapon disarming techniques.
- (f) Weapon Retention – blocks, strikes, and maneuvers designed to maintain possession and control of a firearm from the holster and from the drawn position.

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Rule 10.7. Firearms Training Instructor - A qualified Firearms Training Instructor must conduct the firearms training portion for CSOs and CSSOs. An individual seeking to be a qualified Firearms Training Instructor must prove that he or she meets the following requirements of the Department:

- (a) Hold a current firearms training instructor certificate from a recognized instruction course, such as:

- (i) Firearm instructor certificate issued by the Arkansas Law Enforcement Standards and Training Commission;
 - (ii) Firearm instructor certificate issued by any federal, state, or local law enforcement agency;
 - (iii) Certificate of completion of a Certified Pistol Instructor-Basic Pistol Shooting Course and a current certificate of completion of a Range Safety Officer Course by a Chief Range Safety Officer Instructor;
 - (iv) Certificate of completion of a Certified Instructor Rifle Shooting Course and a certificate of completion of a Range Safety Officer Course by a Chief Range Safety Officer Instructor; or
- (b) Been approved by the Director of the Arkansas State Police.

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SECTION 11. PRIVATE INVESTIGATION COMPANIES AND INDIVIDUALS

Rule 11.0. Credentialed Private Investigator (CPI) - An applicant for a CPI credential must work under the supervision of a qualified manager of a Class A company and pass an examination administered by the ASP.

Rule 11.1. PI Course of Instruction – all applicants for a Class A or D license must complete the following training requirements if they do not meet the experience of a manager as outlined in A.C.A. § 17-40-306:

- (a) Fifteen (15) hours of basic doctrines of private security (orientation) including history, ethics, organization and functions of private security;
- (b) Fifteen (15) hours of purposes of security;
- (c) Twenty-five (25) hours of criminal law;
- (d) Twenty-five (25) hours of civil law;
- (e) Five (5) hours of legal powers and limitations;
- (f) Forty (40) hours of security functions including report writing, patrol, interviewing and interrogation, investigations, surveillance, evidence, public relations, and safety;
- (g) Five (5) hours of A.C.A. § 17-39-101, et seq. and A.C.A. § 14-40-101, et seq.;
- (h) Sixty (60) hours of security supervision management including administrative responsibilities, investigative responsibilities, managerial responsibilities, and business communications;
- (i) Ten (10) hours of emergencies and disaster control; and
- (j) Ten (10) hours of self defense (armed and unarmed).

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SECTION 12. POLYGRAPH EXAMINERS

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Rule 12.1. Application - An applicant must submit with their new polygraph application:

- (a) One (1) copy of his or her college transcript or diploma OR proof of five (5) consecutive years of active law enforcement experience shall be documented on agency letterhead; and
- (b) Certificate of completion from an accredited polygraph course.

Rule 12.2. Sponsors - A sponsor is a polygraph examiner who has held a Polygraph Examiners License for at least two (2) years.

Rule 12.3. Sponsor limit - No polygraph examiner shall sponsor more than two (2) interns at one time.

Rule 12.4. Unauthorized reproduction - Polygraph examiner licenses issued by the Department shall not be reproduced or copied.

Rule 12.5. Continuing education - All polygraph examiners renewing their license must submit proof of continuing polygraph examiner education consisting of at least fourteen (14) hours within the past two years.

Rule 12.6. Subject unfit - The polygraph examiner shall not conduct a polygraph examination of a subject who he or she believes, through observation or any other creditable evidence, to be physically or psychologically unfit for an examination at that time.

Rule 12.7. Voluntary examination - No examiner shall record any physiological or psychological reaction or response with an instrument, or any part of an instrument, without the subject being aware that their physiological or psychological reactions or responses are being recorded for the purpose of determining truth or deception.

Rule 12.8. Compliance with law - An examiner shall not conduct an examination where he or she has reason to believe the examination is intended to cause him or her to circumvent or defy the law.