

**Title 16, Division 7, Articles 6, 7, 9, Sections 628, 631,633, 635, 643, 645, and 646
California Code of Regulations**

Bureau of Security and Investigative Services

Final Statement of Reasons

Power to Arrest and Appropriate Use of Force Training

Section Affected: California Code of Regulations (CCR), Title 16, Division 7, Articles 6, 7, 9, Sections 628, 631,633, 635, 643, 645, and 646

Updated Information

The Informative Digest and Initial Statement of Reasons are included in the rulemaking file and incorporated as though set forth herein.

The Bureau of Security and Investigative Services (Bureau or BSIS) mailed the rulemaking package notice and sent out the notice via email listserv on July 19, 2023. The Office of Administrative Law (OAL) officially noticed the package on July 19, 2023, and the 45-day comment period was through September 6, 2023. The Bureau received three comments during the public comment period. There was one request for a public hearing past the deadline, and no separate public hearing was held.

Objections or Recommendations/Responses

During the 45-day comment period, ending on September 6, 2023, the Bureau received two comments opposing, and one comment both supporting in part and opposing in part. Below is a summary of the comments and the Bureau's responses.

Comment A-1

A. Email received August 14, 2023, from Commenter 1

Summary of Comment:

The commenter expressed concerns about the proposed stipulation that these training sessions must be conducted in a traditional classroom setting as opposed to an online platform. The commenter stated that their service area provides limited access to current training facilities, that they would be compelled to personally administer training sessions or send potential hires to locations outside our operational locations. The commenter opined that this could deter a substantial proportion of applicants from

pursuing a career in this field, particularly given the existing financial challenges they encounter when covering training course expenses, fingerprint fees, and application costs. The commenter opined that the exclusion of online training alternatives would significantly hamper universal access to mandatory occupational training, thereby detrimentally impacting the process of workforce development.

The commenter stated that the value of online programs is further underscored by their availability to all candidates across the state, and that compelling training exclusively within a physical classroom severely constrains the accessibility, benefiting urban locales or regions housing these specialized training facilities. The commenter opined that this shift would trigger a substantial escalation in financial outlays, both for businesses and individuals, potentially in a twofold or threefold increase in costs.

Response to Comment:

The Bureau has reviewed and considered the opposing comments and declines to make any amendments to the proposed text based thereon.

As described on page 42 of the Initial Statement of Reasons, the proposed regulatory text establishes that the legislature mandated that some of the use of force topics in Section 643 (and the Appendix of Section 643) to be in-person, defined as “training conducted through traditional classroom instruction as defined in Section 7583.7 of the Business and Professions Code.” Online classes cannot capture nor illustrate properly the proper technique for restraining a suspect.

While the proposed regulatory text outlines the course that must be in-person, the mandate itself is from Business and Professions Code (BPC) Section 7583.7 and the legislature. Additionally, approximately 50% of the courses are in-person (5 out of 11 subjects):

- use of objectively reasonable force,
- Use of force review and analysis,
- De-escalation and interpersonal communication training, including tactical methods that use time, distance, cover, and concealment, to avoid escalating situations that lead to violence,
- Use of force scenarios, including simulations of low-frequency, high-risk situations and calls for service, shoot-or-don't-shoot situations, and real time force option decision making,
- Active shooter situations

The fact that the Bureau is permitting providers to teach some of the courses online also provides for some flexibility.

Thus, the Bureau has no authority to make any amendment to the proposed text, based

on the statutory mandate.

Comment B-1

B. Email received August 16, 2023, from Commenter 2

Summary of Comment:

The commenter expressed concerns that the mandate for the "Power to Arrest and Appropriate Use of Force Training" course cannot be taught online. The commenter opined that removing access to online training will devastate the private security industry in California.

The commenter stated that with the removal of online training, costs to businesses and individuals will more than double. The commenter stated that the average cost of the Powers to Arrest and Weapon of Mass Destruction (WMD) online course is between \$18 and \$25, while the average cost of an instructor-led course, covering identical material, is between \$50 and \$75, with potential increases in cost by training providers that may further increasing the cost disparity. The commenter stated that a \$50 cost can be prohibitive to working poor, underemployed, and unemployed, which are compounded by travel expenses (gas), time away from children, and potentially time off from other employment.

The commenter stated that the value of online programs is further underscored by their availability to all candidates across the state, and that compelling training exclusively within a physical classroom severely constrains the accessibility, benefiting urban locales or regions housing these specialized training facilities. The commenter opined that this shift would trigger a substantial escalation in financial outlays, both for businesses and individuals, potentially in a twofold or threefold increase in costs.

The commenter stated that most other states are adding online training options, and that the proposal is eliminating online training options. The commenter stated that most security employers will not interview a candidate unless they have already completed the Power to Arrest course, and that limiting this course's accessibility to only those who can afford to travel to a traditional classroom creates an unnecessary barrier to entry for thousands of Californians seeking better jobs. The commenter stated that in 2022, their company trained 26 people on the Power to Arrest in facilities, compared to 3,181 times online. The commenter stated that online training is more flexible training since it can be completed on a smartphone, tablet, or computer from home or a shelter, or a local public library can be used. The commenter stated that the underemployed and working poor cannot afford a personal car, and rural areas do not have local training facilities.

The commenter also stated that online training offers flexibility in that it can be completed at any hour rather than fixed business hours, which does not force the working parent to skip a day of work to attend training for a second or better job.

Response to Comment:

The Bureau has reviewed and considered the opposing comments and declines to make any amendments to the proposed text based thereon.

As described on page 42 of the Initial Statement of Reasons, the proposed regulatory text establishes that the legislature mandated that some of the use of force topics in Section 643 (and the Appendix of Section 643) to be in-person, defined as “training conducted through traditional classroom instruction as defined in Section 7583.7 of the Business and Professions Code.” Online classes cannot capture nor illustrate properly the proper technique for restraining a suspect.

While the proposed regulatory text outlines the course that must be in-person, the mandate itself is from Business and Professions Code (BPC) Section 7583.7 and the legislature. Additionally, approximately 50% of the courses are in-person (5 out of 11 subjects):

- use of objectively reasonable force,
- Use of force review and analysis,
- De-escalation and interpersonal communication training, including tactical methods that use time, distance, cover, and concealment, to avoid escalating situations that lead to violence,
- Use of force scenarios, including simulations of low-frequency, high-risk situations and calls for service, shoot-or-don’t-shoot situations, and real time force option decision making,
- Active shooter situations

The fact that the Bureau is permitting providers to teach some of the courses online also provides for some flexibility.

Thus, the Bureau has no authority to make any amendment to the proposed text, based on the statutory mandate.

Comment C-1

C. Email received September 5, 2023, from Commenter 3

Summary of Comment:

The commenter supported the proposed addition of appropriate use of force training to

the powers to arrest course, the proposed requirement to have the use of force training be provided in person, the proposed cultural competency and mental illness awareness training, and the proposed addition of a semi-automatic handgun qualification. The commenter stated it is necessary for all security guards in the state to have training on the use of force before their first day on post, and a new course of fire should reflect the use of semi-automatic handguns by security guards.

The commenter expressed concerns about the proposed rule outlining the authorized permissible calibers. The commenter stated this change does not take into account how firearms technology changes and may result in the unintended consequence of limiting guards from using safer and improved quality firearms in the future if those firearms happen to be manufactured in calibers other than the seven proposed authorized calibers. The commenter opined that the purpose of the authorized calibers rule is to ensure that guards are only using handguns in the performance of their duties and expressed concern that this does not clearly address whether long-guns manufactured in the proposed authorized calibers could be used when performing security duties. The commenter requested that the Bureau address the broader topic of long-guns (rifles and shotguns) and their use by licensed security guards, citing use by guard forces at California's nuclear waste storage facilities and at Diablo Canyon.

The commenter expressed concerns about the weapons of mass destruction (WMD) course being removed from the mandatory initial training and moving it to an elective course. The commenter stated that the WMD course is essential to inform private security personnel of the important role they play in our nation's counter-terrorism strategy. The commenter suggested that instead of removing the WMD course from the mandatory training to make room for the use of force training, that the Bureau add use of force training to the eight hours of initial training already required, for possibly a total of twelve hours or more of training.

Response to Comment:

The Bureau acknowledges the supporting comments and appreciates the support. The Bureau has reviewed and considered the opposing comments and declines to make any amendments to the proposed text based thereon.

As described on page 13 of the Initial Statement of Reasons, the proposed regulatory text establishes why certain calibers in § 633 (b)(8) - § 635 (c) were selected. The current course of firearms training for applicants seeking a BSIS-issued firearms permit is specific to revolver and semi-automatic handguns, not long guns such as rifles or shotguns. The subject of authorizing permitholders to carry long guns is irrelevant to this rulemaking because historically, long guns such as rifles and shotguns have been used for distance shooting, and because security personnel are confronted with situations

that typically involve altercations at 7–10 feet, handguns are more appropriate for the security profession. Thus, the current course of firearms training is specific to revolvers and semi-automatic handguns, and use of long guns is a separate issue that would require additional research and the development of additional training specific to the use and carrying of long guns.

As described on pages 38 and 53 of the Initial Statement of Reasons, the proposed regulatory text establishes that WMD course is an elective. The legislature amended BPC section 7583.7, subd. (a)(11) and specifically designated WMD as an elective topic only. BPC section 7583.7(a) specifies the training shall be approximately eight hours in length, not twelve hours. By moving the 4 hours of WMD training to the elective section, the Bureau was able to incorporate the appropriate use of force topics within the existing eight hours of training that is currently required.

Thus, the Bureau has no authority to make any amendment to the proposed text, based on the statutory mandate.

Local Mandate

A mandate is not imposed on local agencies or school districts.

Consideration of Alternatives

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the Bureau would be more effective in carrying out the purpose for which it was proposed or would be as effective and less burdensome to affected private persons than the adopted regulations or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The Bureau incorporates by reference the alternatives identified in its Initial Statement of Reasons and did not receive any comments that altered its findings.

DEPARTMENT OF CONSUMER AFFAIRS
TITLE 16. BUREAU OF SECURITY AND INVESTIGATIVE SERVICES

ADDENDUM TO THE FINAL STATEMENT OF REASONS
Power to Arrest and Appropriate Use of Force Training

Amend Section 631, Definitions, Division 7

Subdivision (I)

The Bureau amended the definition to remove references to the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders as the reference created a prospective incorporation by reference. This change was non-substantive and had no regulatory effect.

Amend Section 635, Course of Firearms Training, Division 7

Subdivision (B)

The Bureau amended the fourth sentence in the paragraph by striking the word “Each,” which had been existing language. This change was non-substantive and had no regulatory effect.

Amend Section 643, Skills Training Course for Security Guards, Division 7

Subdivision (c)(3)

The Bureau amended the language by moving the word “only” to follow the word “training” to make the sentence grammatically correct. This change was non-substantive and had no regulatory effect.

Subdivision (c)(4)

The Bureau amended the language by moving the word “only” to follow the word “training” to make the sentence grammatically correct. This change was non-substantive and had no regulatory effect.

Amend Proposed Section 646, Training for Alarm Agents, Division 7

Subdivision (c)(3)

The Bureau amended the language by moving the word “only” to follow the word “training” to make the sentence grammatically correct. This change was non-substantive and had no regulatory effect.