

Colorado F. O. P.



Off Duty Legal Plan

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**Plan Description
Rules and Regulations of the Off-Duty Legal Plan**

PLAN DESCRIPTION
RULES AND REGULATIONS OF THE “OFF-DUTY” LEGAL PLAN

ARTICLE 1
DEFINITIONS

The following definitions shall apply to the OFF-DUTY LEGAL PLAN.

1. *“Administrative Address”* is 2701 W. 84th Ave., #211 Westminster, CO 80031.
2. *“Benefit Plan,” “the Plan”* or *“the OFF-DUTY LEGAL PLAN”* means the Colorado F.O.P. Off-Duty Legal Plan.
3. *“FOP”* means the Fraternal Order of Police. The FOP has a number of Colorado nonprofit corporate entities. The OFF-DUTY LEGAL PLAN is a plan offered by the Colorado Fraternal Order of Police Off-Duty Legal Plan (hereinafter *“FOP”*), a Colorado nonprofit corporation which is separate and distinct from other FOP entities.
4. *“Covered Claim”* means an Off-Duty single event or incident that is properly reported to the OFF-DUTY LEGAL PLAN and for which the OFF-DUTY LEGAL PLAN provides benefits, and has been approved as a covered claim by the plan administrator.
5. *“Incident”* means an act or omission of a Member which gives rise to a *“Covered Claim”*.
6. *“OFF-DUTY LEGAL PLAN Attorney”* means an attorney or law firm selected by the FOP to provide OFF-DUTY LEGAL PLAN Legal Services, and whose name appears on the OFF-DUTY LEGAL PLAN approved list of attorneys.
7. *“Legal Services”* means advice, consultation or representation rendered by an attorney to a Member, including those customary charges for paralegal assistance, photocopying, long distance telephone expense, faxing, travel and other similar types of expenses.
8. *“Member”* means a Member in good standing of a Subordinate Lodge, that is recognized by the OFF-DUTY LEGAL PLAN and whose OFF-DUTY LEGAL PLAN membership dues have been paid to the OFF-DUTY LEGAL PLAN by the Member’s subordinate lodge.
9. *“Peace Officer”* means any law enforcement officer who is eligible to become an active member of the FOP.
10. *“Public Safety Employee”* means any person not a Peace Officer who is employed by a law enforcement agency or who volunteers his or her time, and in whose name a Subordinate Lodge makes contributions to the OFF-DUTY LEGAL PLAN.

11. “*Reimbursable Costs*” means expert fees, witness fees, filing fees, court costs, transcript costs, document delivery fees, and other similar litigation expenses.

12. “*Subordinate Lodge*” means any active FOP Lodge of the Colorado State Lodge (Fraternal Order of Police) which is a Lodge in good standing with the FOP.

ARTICLE 2
PLAN ADMINISTRATION

The OFF-DUTY LEGAL PLAN is a plan offered by the Colorado Fraternal Order of Police Off-Duty Legal Plan (hereinafter “FOP”), a Colorado nonprofit corporation, whose officers consist of a President, Secretary and Treasurer. The President may appoint a plan administrator to manage the day to day operation of the plan and initially approve or deny claims. The President is the person currently holding the office of President of the Colorado State Lodge (Fraternal Order of Police) which is a separate and distinct Colorado nonprofit corporation. The Colorado Fraternal Order of Police Off-Duty Legal Plan will be administered as the FOP President sees fit.

ARTICLE 3
ENTITLEMENT TO OFF-DUTY LEGAL PLAN BENEFITS

A. PARTICIPATION IN THE OFF-DUTY LEGAL PLAN

Participation is open to any Peace Officer or Public Safety Employee who is a Member of the FOP and pays OFF-DUTY LEGAL PLAN membership dues to the OFF-DUTY LEGAL PLAN. Participation in the OFF-DUTY LEGAL PLAN is voluntary. However, participation and payment of OFF-DUTY LEGAL PLAN membership dues means that the member accepts and agrees to be bound by the terms and conditions of the OFF-DUTY LEGAL PLAN.

B. METHOD OF APPLICATION FOR OFF-DUTY LEGAL PLAN PARTICIPATION

Application for participation in the OFF-DUTY LEGAL PLAN shall be submitted to the OFF-DUTY LEGAL PLAN by a Subordinate Lodge and/or member. Applications not fully and accurately completed may result in ineligibility for and non-payment of OFF-DUTY LEGAL PLAN Benefits.

C. PREREQUISITES TO RECEIVE OFF-DUTY LEGAL PLAN BENEFITS

A Member is entitled to receive OFF-DUTY LEGAL PLAN benefits for Covered Claims only if the following conditions are met:

1. The applicable OFF-DUTY LEGAL PLAN membership dues for the Member have been paid to the OFF DUTY PLAN by the Member’s Subordinate Lodge and/or the Member;

2. The Member was in good standing with the OFF-DUTY LEGAL PLAN at the time the Incident occurred, remains a member for a minimum of one year or paid plan dues for the total equivalent of a year, and maintains OFF-DUTY LEGAL PLAN membership while the Claim is pending; and

3. The member has notified an OFF-DUTY LEGAL PLAN Attorney or Law Firm of his or her claim for benefits.

4. If the member is not a member of a local lodge that enrolls all of its active duty members in the plan then the following conditions will apply: the member must be a member in good standing for a minimum of 6 months prior to filing a claim to access benefits. The member is only entitled to a maximum of \$7,500.00 of legal coverage for the first year they are a member of the plan.

5. There is a completed claims form relating to the incident for which the member is requesting coverage and the claim has been approved as a covered claim by the plan administrator; or approved subsequent to an appeal of a denied claim pursuant to the procedures for appeals described in Article 5 of these terms and conditions.

D. MEMBERSHIP DUES

The cost of obtaining this OFF-DUTY LEGAL PLAN will be \$10.00 per month per FOP member who is a member of a lodge that purchases the plan for all of its members, and \$15.00 per month for any member that purchases the plan as an individual. Any individual FOP member in good standing that wishes to opt into this Plan acknowledges his or her agreement to be bound by the terms and conditions of the Plan by completing an ACH form authorizing the debit of \$15.00 per month. Further, the Members continued participation and payment of OFF-DUTY LEGAL PLAN membership dues means that the member accepts and agrees to be bound by the terms and conditions of the OFF-DUTY LEGAL PLAN.

If a FOP Member wishes to join the OFF-DUTY LEGAL PLAN in the middle of the calendar year, the Member agrees to pay dues to catch-up for the months they did not pay for the entire calendar year (for example, if the member joins the plan in July, they must dues for the months of January – June even though they were not Members).

The dues will be debited on the 1st of every month and will be deposited into a Colorado Fraternal Order of Police Off-Duty Legal Plan bank account. The costs of administering the Plan will be deducted from the Fraternal Order of Police Off-Duty Legal Plan Account. The remaining funds will be used to compensate the OFF-DUTY LEGAL PLAN Attorney or Law Firm's for the legal services performed for the OFF-DUTY LEGAL PLAN members.

E. EFFECT OF DELINQUENCY OF PAYMENT

1. If membership dues are not paid as required, benefits under the OFF-DUTY LEGAL PLAN shall cease on the first day of the month following the due date of the payment.

2. Notwithstanding the above provision, if the delinquent payment is made within one month of the payment's due date, entitlement to OFF-DUTY LEGAL PLAN benefits shall be reinstated retroactively. Any such late payment shall be applied first to the period of delinquency and then, if the amount is sufficient, to the current period.

F. TERMINATION OF OFF-DUTY LEGAL PLAN BENEFITS

Benefits for a Member shall automatically terminate upon the occurrence of any of the following events:

1. The Member's participation in the OFF-DUTY LEGAL PLAN terminates.
2. The Member's membership in the FOP terminates.
3. The Member's membership in a Subordinate Lodge terminates.
4. Failure by the Member to appeal a denial of benefits within the applicable time period.
5. The Member's Subordinate Lodge terminates its membership in the OFF-DUTY LEGAL PLAN.
6. Subsequent amendment or dissolution of the OFF-DUTY LEGAL PLAN.
7. Non-cooperation with an OFF-DUTY LEGAL PLAN Attorney, Law Firm or FOP officer including but not limited to the President, Secretary and/or Treasurer.
8. Misrepresentation by a Member to an OFF-DUTY LEGAL PLAN Attorney, Law Firm or FOP officer including but not limited to the President, Secretary and/or Treasurer.
9. Determination that it is in the best interest of the OFF-DUTY LEGAL PLAN or the FOP to cease the Member's participation in the action.

G. TRANSFERRED MEMBERSHIP

Any Member who transfers membership without interruption from one Subordinate Lodge to another Subordinate Lodge and maintains continuous OFF-DUTY LEGAL PLAN membership shall be entitled to benefits for any Covered Claim occurring while the Member was transferring lodges.

H. RETIRED MEMBERS

A Retired Member shall be entitled to benefits for any Covered Claim provided the Member pays the OFF-DUTY LEGAL PLAN membership dues, and remains a Member of a Subordinate Lodge in good standing.

ARTICLE 4 OFF-DUTY LEGAL PLAN BENEFITS & TERMS

Subject to any exclusions or limitations set forth herein, the OFF-DUTY LEGAL PLAN shall pay the following benefits for Covered Claims up to the applicable limits of liability:

A. COVERAGE

So long as a member is in good standing and is paying the monthly cost, he or she will receive a credit in the amount of \$15,000.00 per covered claim that may be used in one or more of the following practice areas with the **exceptions** of Family Law and Real Estate Law. Family Law and Real Estate Law covered claims are capped at \$2,500.00 per covered claim provided the member has incurred the first \$2,500.00 in fees towards the Family Law and Real Estate Law covered claim. However, no member can exceed more than \$15,000.00 per covered claim or \$2,500.00 per Family Law or Real Estate Law covered claim over the life of the claim or regardless of how long in time the claim takes to resolve. Further, in the event that a member makes multiple covered claims the credit cannot exceed \$15,000.00 for any combination of claims in a calendar year.

B. COVERED CLAIMS AND APPLICABLE CAPS

The following are the covered claims by subject matter. In the event that there is a question about whether the proposed claim is covered or fits the terms of the subject matter the FOP President or his/her designee will make the decision.

1. **Criminal Defense**: Criminal defense includes any misdemeanor or felony case. Specifically excluded from criminal defense coverage is any traffic tickets or parking violations (DUI/DWAI is considered a misdemeanor and is therefore covered).
Applicable Cap: \$15,000.00 per covered claim over the life of the claim.
2. **Employment Law**: Employment law matters includes unemployment hearings above and beyond the ten (10 hours) that is currently covered by the FOP Legal Defense Fund and District Court C.R.C.P. 106 administrative reviews of any employment decision. Specifically excluded from employment law is any matter covered by the FOP Labor Council. **Applicable Cap: \$15,000.00 per covered claim over the life of the claim.**
3. **General Real Estate or Transactional Matters**: This practice area includes landlord/tenant issues and/or disputes, real estate transactions, real estate finance and

general business matters. **Applicable Cap: \$2, 500.00 per covered claim over the life of the claim, provided the member has incurred the first \$2,500.00 in fees towards the covered claim.**

4. Wills, Trusts & Estate Law: This practice area includes consultations involving and the preparation of one or more of the following documents (as needed) - simple will, medical power of attorney, financial power of attorney, living will, simple will with trust provisions and declaration of last remains. **Applicable Cap: \$15,000.00 per covered claim over the life of the claim.**
5. Family Law: For purposes of the Plan, family law includes all proceedings arising under Article 10, Title 14 of the Colorado Revised Statutes, such as dissolution of marriage, establishment/modification of child support and maintenance, and allocation/modification of parental rights and responsibilities. Also included are hearings and sub-issues emanating from Title 19, C.R.S. proceedings, but *only to the extent* that the substantive law of Article 10, Title 14 C.R.S. will be applied thereto: By example, a child-support or APR hearing conducted following a Title 19 determination of paternity is a family law matter for purposes of the Plan, though the paternity determination itself is not. Specifically excluded from family law coverage are proceedings arising under Title 19 which are governed by the substantive law of Title 19, such as paternity, adoption, and/or Dependency and Neglect cases; as well as all proceedings arising under Titles or Articles other than those set forth above. **Applicable Cap: \$2,500.00 per covered claim over the life of the claim provided the member has incurred the first \$2,500.00 in fees towards the Family Law covered claim.**

C. DISCLAIMER

Unless expressly mentioned above, all other practices areas of law are not covered by this Plan. For instance, while this list is **not** exhaustive, the Plan does **not** include matters concerning immigration, securities, syndications, environmental, tax, immigration, patent, copyright and intellectual property law. The prior iteration of the Plan covered Family Law with a cap of \$15,000.00 per claim. Effective July 15, 2014, this Plan only covers Family Law claims up to a cap of \$2,500.00 per claim over the life of the approved covered claim provided the member has incurred the first \$2,500.00 in fees towards the Family Law covered claim. The member will receive the standard FOP rate of \$165/hour on all off-duty matters above the applicable caps but will be personally responsible for payment of any legal fees above and beyond the applicable cap.

D. FEE AGREEMENT & BILLING

Prior to the commencement of any work under any of the above-designated practice areas, each member must execute a mutually acceptable engagement agreement with the applicable law firm or firms. The engagement agreement will state the scope of the services to be rendered by the law firm or firms and will acknowledge the waiver of legal fees up to the

amount of the applicable cap so long as the member remains in good standing and continues to pay his or her monthly charge. Per the terms of the engagement agreement, the member will receive a monthly statement so that he or she can track time spent and fees and costs incurred. Once the applicable cap is reached, the member will pay at the rate of \$165.00 per hour (the standard FOP rate) directly to the law firm or firms on any given case.

E. COSTS-MEMBER IS RESPONSIBLE

Each member agrees and understands that the Plan covers only attorney's fees - not "costs." Each member will pay directly or reimburse the applicable law firm for all costs necessarily incurred in the representation of the applicable member. Depending upon the nature of the representation, such costs may include, without limitation:

- (a) Fees payable to the court and for service of process;
- (b) Subpoena and witness fees;
- (c) Costs of investigation, photographs, and film;
- (d) Fees of court reporters to take and prepare transcripts of depositions;
- (e) Costs for reports and records from physicians, hospitals and employers;
- (f) Costs and fees for experts for preparation of reports, preparation for depositions, and preparation for and testimony at trial;
- (g) Costs for O&E reports, title commitments and title policies;
- (h) Costs for surveys, improvement location certificates and the like;
- (i) Costs for foreclosure guaranties and foreclosure related costs incurred by, or on behalf of, a public trustee
- (j) Necessary travel and related expenses; and,
- (k) Photocopying, postage and long distance telephone calls.

F. MISCELLANEOUS

Neither the establishment of the Plan nor services rendered in furtherance thereof shall be construed as giving any member or any other person, whether natural or otherwise, any claim or cause of action against the FOP or its officers, directors, employees or agents. All benefits and the associated coverage and exclusions are governed solely by the Plan.

In the event of any ambiguity, interpretation of the ambiguous Plan provision is vested exclusively with the FOP, in its sole and absolute discretion. Any such FOP determination and decision shall be final, conclusive, non-appealable and shall be binding upon the members and all persons having an interest in the Plan.

The Plan shall be governed by and construed in accordance with Colorado. The Plan will not require any attorney to perform any act in violation of applicable law or any Colorado Rule of Professional Conduct. Once a member engages a law firm under the Plan, such engagement shall be subject to the terms and conditions of the engagement agreement. All attorneys and other providers of services to the members under the Plan are independent contractors and not agents or employees of the FOP. The FOP makes no representation or warranty, either express or implied, with respect to the skill or expertise of any attorney or other provider of service. Each firm will use its best efforts in representing each member. However, the law firm or firms cannot make any representations concerning the successful or favorable outcome to, or conclusion of, a member's claim, or of any legal representation or action, that may be pursued. Each member further acknowledges that a firm's expressions relative to a member's possible success are preliminary opinions based on the firm's then current actual knowledge of the matter.

A member may not assign, whether in whole or in part, under any circumstance whatsoever, any of its rights in, to or under the Plan to any person, whether natural or otherwise.

The FOP, in its sole discretion, has the right, power and authority to terminate the Plan or modify coverage, benefits, exclusions, membership fees or other material terms thereof. At least ten (10) calendar days prior to any such action, the FOP shall deliver written notice to the members specifying, when applicable, the nature and type of any such termination, modification or other change and the effective date of such.

If any provision of the Plan is found to be invalid, unlawful or unenforceable, all other provisions shall remain in full force and effect.

ARTICLE 5 OFF-DUTY LEGAL PLAN DISPUTE RESOLUTION

A. DISPUTE OVER WHETHER A CLAIM IS COVERED

In the event that a claim is denied by the plan administrator and there is a question about whether the proposed claim should be covered or fits the terms of the subject matter the FOP President or his/her designee will make the decision. However, in the event that the member disagrees with the decision about whether the proposed claim is covered or fits the terms of the subject matter, the member will be entitled to appeal the decision to a three (3) person committee designated by the FOP President, provided the member appeals the decision in writing to the FOP President within ten (10) business days from the decision. The decision of the three (3) person committee will be final and binding on the member

B. ARBITRATION

In the event of any dispute under this Agreement, the parties agree to submit the matter to binding arbitration in accordance with the rules of the Uniform Arbitration Act of 1975, Section 13-22-201 et. seq., C.R.S. 1973, as amended. Each party may be represented by legal counsel.

The decision of the arbitrator(s) shall be final and conclusive and the right to appeal is hereby waived. All parties agree to pay their own fees and costs should the parties submit the matter to arbitration regardless of who is deemed the “prevailing” party.