

**RULES AND REGULATIONS OF
THE INSURANCE COMMISSIONER**

**CHAPTER 120-3
RULES OF SAFETY FIRE COMMISSIONER**

**SUBJECT 120-3-29
OFF-DUTY POLICE EMPLOYMENT**

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RULE 120-3-29-.01. Definitions

For the purposes of this chapter, the term:

- (a) "Commissioner" shall mean the Safety Fire Commissioner.
- (b) "Department" shall mean the Safety Fire Division of the Office of the Commissioner of Insurance.
- (c) "Sworn member" shall mean any person employed by the Commissioner of Insurance in a sworn law enforcement capacity.
- (d) "Off-duty police employment" shall mean employment with an entity other than the Office of Commissioner of Insurance which entails actual or potential use of police authority and requires vested police powers as a condition of employment. Off-duty employment may be either by private or public entities.
- (e) "Large off-duty police detail" shall mean a police detail requiring more than twelve sworn members.
- (f) "Off-duty employment coordinator" shall mean any individual designated by the Commissioner of Insurance to coordinate requests to work off-duty employment, to maintain employer information, and to oversee the approval process for use of Departmental vehicles for off-duty police employment.

Authority:

O.C.G.A. §§33-2-9, 33-2-8.

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RULE 120-3-29-.02. Approval.

(a) Prior to accepting off-duty police employment, a sworn member must obtain permission from the Commissioner or the Commissioner's designee. Requests for permission must be made on a form prescribed by the Commissioner and must be sent to the Commissioner or off-duty employment coordinator for approval. If the proposed employment conflicts with the sworn member's state employment or with any policy, rule, or regulation; of the Commissioner or the State Personnel Board, the request shall be disapproved. Approval will only be granted if there is no conflict of interest, the proposed employment does not interfere with the sworn member's primary duties, and the proposed employment is within the duties and responsibilities a sworn member performs or is reasonably expected to perform as part of his or her job duties and responsibilities. The Commissioner or his designee has the discretion to approve or disapprove any request.

(b) If approval is granted, a copy of the request form marked "approved" shall be maintained by the off-duty employment coordinator. The off-duty employment coordinator shall provide notice to each approved employer.

(c) In the event a request is made for emergency approval to work off-duty police employment, oral authorization may be granted by the Commissioner or his designee. Emergency approval will only be considered when the request from the employer is made 72 hours or less prior to the date of the off-duty police employment. If oral approval is granted, a written request, as provided above, must be prepared and forwarded on the form prescribed by the Department, through the chain of command, within 72 hours of the approval being granted.

(d) Approval for off-duty police employment may be suspended at any time that a conflict is found to exist, the employment interferes with the sworn member's primary duties, departmental procedures are violated, or otherwise in the discretion of the Special Agent in Charge or above, in consultation with the State Fire Marshal, Criminal Investigator Supervisor, or Commissioner. The Department may make reasonable inquiries of a sworn member to ensure that no conflict or violation of the Department's policy exists.

(e) Approval for off-duty police employment may be revoked at any time at the discretion of the

Commissioner.

Authority:

O.C.G.A. §§33-2-9, 33-2-8.

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RULE 120-3-29-.03. Eligibility.

The following sworn members shall not be approved for off-duty police employment:

- (a) Sworn members on suspension with or without pay;
- (b) Sworn members assigned administrative duties for the purpose of investigation;
- (c) Sworn members with an overall performance management assessment of "Does Not Meet Expectations";
- (d) Sworn members approved for modified duty due to being physically or mentally incapable of performing his or her job duties;
- (e) Sworn members on worker's compensation, sick leave, or FMLA leave; and
- (f) Sworn members on any type of leave due to their own personal illness or injury.

Authority:

O.C.G.A. §§33-2-9, 33-2-8.

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RULE 120-3-29-.04. General Provisions.

(a) Sworn members desiring to work off-duty police employment shall arrange such employment with the understanding that all matters related to the off-duty police employment shall be conducted at a time when the sworn member is not on duty.

(b) No scheduling, arranging employment, replacements, delivering paychecks, or any other off-duty police employment-related matters shall be performed while the sworn member is on duty with the Office of Commissioner of Insurance and Safety Fire; provided, however, that for off-duty police employment for which the sworn member receives his pay through the Department, the prohibition against the delivery of paychecks shall not apply.

(c) Sworn members are prohibited from leaving their assigned duty work zone for the purpose of off-duty police employment.

(d) Sworn members are prohibited from visiting off-duty work sites while on regularly assigned patrol shifts.

(e) Sworn members are prohibited from adjusting work schedules in order to accommodate off-duty police employment opportunities except when personally approved by the Special Agent in Charge or immediate supervisor.

(f) Sworn members working off-duty police employment shall be governed by the Commissioner's Policy regarding outside employment.

(g) Off-duty police employment is prohibited with a private employer when the employer is involved in a labor strike. In cases where a private employer becomes involved in a labor strike subsequent to approval by the Commissioner, the approval shall be considered immediately withdrawn.

(h) All law enforcement decisions will be made by the sworn member and not by the off-duty police employer.

(i) Use of a department vehicle for off-duty police employment requires written approval in

advance by the Commissioner, or his designee and the vehicle shall be used only in the manner and for the purpose approved.

(j) A sworn member may work a maximum of 64 hours of employment per workweek, whether the work is exclusively regular duty hours, or exclusively off-duty police employment, or a combination of regular duty hours and off-duty police employment. A maximum of 72 hours during one week may be approved by a sworn member's immediate supervisor. The Director has authority to determine that an overage of the 64 hours was unavoidable. Any deliberate omission or misrepresentation by the sworn member of hours worked on off-duty police employment shall result in disciplinary action, up to and including termination of employment. Exceptions will be made in the event of a riot, natural disaster, emergency situation, or other exigent circumstances, as determined by the Commissioner. A sworn member working off-duty police employment shall provide a minimum of six hours for rest between off-duty employment and regular on-duty assignments.

(k) A sworn member engaged in off-duty police employment is expected to take appropriate law enforcement action when a serious violation or life-threatening situation occurs (such as the commission of a felony). A sworn member responding under these conditions is considered "on-duty" and shall be afforded all protection consistent with the position of a sworn member. Law enforcement decisions must be made in accordance with Office of Commissioner of Insurance and Safety Fire policies, procedures, training, rules and regulations.

(l) The off-duty police employer may make general assignment of duties but, has no authority to control law enforcement activities of sworn members. Sworn members engaged in off-duty police employment will be subject to the same policies, rules and regulations as on-duty sworn member. While wearing any uniform of the Office of Commissioner of Insurance and Safety Fire, sworn members shall conduct themselves as professional law enforcement officers and are held to the same high standard and code of conduct as while on duty.

(m) The following rules apply to the use of state equipment in the course of Off-Duty Police Employment:

(1) When off-duty police employment is approved, the sworn member shall wear the Office of Commissioner of Insurance and Safety Fire, to include body armor, and may use Office of Commissioner of Insurance and Safety Fire equipment issued to the sworn member.

(2) Sworn members are permitted to use the department vehicle as authorized by O.C.G.A. §25-2-8.1, in the manner and for the purpose approved by the Commissioner prior to the use of the vehicle, and only in accordance with the Commissioner's policies and procedures.

(3) The Commissioner may require reimbursement for the use of the vehicle by the off-duty employer pursuant to a Department-approved, written agreement between the Department and the off-duty police employer. The Commissioner's determination shall be made before the off-duty employment begins. The off-duty employer shall be

responsible for furnishing lodging and meals to the sworn member if the assignment requires an overnight stay.

(n) A sworn member engaged in an off-duty police employment assignment must be available to be recalled to on-duty status. Notice of this requirement shall be given to the employer in accordance with departmental policy.

(o) Large off-duty police details shall require sufficient sworn off-duty Office of Commissioner of Insurance and Safety Fire supervisors to supervise the detail.

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(1) Sworn members who have an agreement with a property owner or manager to pay a reduced amount of rent or no rent for merely residing at an apartment complex, house, or mobile home park are considered to be engaged in off-duty police employment.

(2) If any type of regularly scheduled service such as security checks are part of the agreement, sworn members are considered to be engaged in off-duty police employment. Each member with such an agreement, either written or oral, shall request approval as stated in this chapter.

(3) The request for off-duty police employment in a rental agreement situation must clearly state the conditions of the agreement.

Authority:

O.C.G.A. §§33-2-9, 33-2-8.

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RULE 120-3-29-.05. Unacceptable Employment.

Off-duty police employment which is not acceptable to the Office of Commissioner of Insurance and Safety Fire includes, but is not limited to:

- (a) Employment involving wrecker companies, bail bonding companies, private investigation services, security company, paralegal services, pawn brokers, nightclubs, bars, adult entertainment establishments, employment in which the primary source of revenue is the sale of alcoholic beverages, precious metal dealers, any licensed agent, subagent, or person licensed through the Department of Safety generally, employers known to have a lawsuit or administrative hearing pending involving the State of Georgia, and any employment that would require a sworn member to testify in court in opposition to another law enforcement agency. Approval may be granted on an individual basis when the sale and consumption of alcohol beverages is incidental to the primary function or purpose of the enterprise such as sports facilities and civic centers. The Commissioner may make reasonable inquiries of the member to ensure that the continued outside employment does not constitute a conflict of interest.
- (b) Any other off-duty police employment determined by the Commissioner, in his or her discretion, to be inconsistent, incompatible, in conflict with or that would bring discredit upon the Commissioner.

Authority:

O.C.G.A. §§33-2-9, 33-2-8.

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RULE 120-3-29-.06. Off-Duty-Employer Responsibilities.

(a) The Department will not be responsible for a sworn member's actions if the sworn member is acting in the scope of employment for the outside employer. Except as provided in this rule, state benefits and protection, including liability insurance coverage and workers compensation benefits for related injuries and disability, will not apply while the sworn member is performing off-duty police employment.

(b) If such employment is by another state department, that agency, rather than the Office of Commissioner of Insurance and Safety Fire, will be responsible for such coverage.

(c) If use of the department vehicle has been approved for use in off-duty police employment in accordance with O.C.G.A. § 25-2-8.1, the sworn member is deemed to be acting within the scope of his/her official duties and employment and shall be afforded liability coverage for claims arising out of such approved use of the vehicle.

(d) Requests for employment by another state agency shall be in writing and shall conform to the requirements for Off-Duty Police Employment. In addition to the requirement stated in this policy, a release shall be provided by the sworn member which states:

(1) In the event that the hours worked for the Department and another state agency result in the sworn member being eligible for overtime, the overtime shall be the responsibility of the other agency up to the maximum hours worked by the other agency, and

(2) In the event the sworn member requests or becomes entitled to overtime pay as a result of working outside the Department for another agency, the outside employer or other state agency shall bear the expense or liability and must agree to such in writing.

Authority:

O.C.G.A. §§33-2-9, 33-2-8.