



**OLYMPIC REGIONAL
NEW YORK
DEVELOPMENT AUTHORITY**

GOVERNANCE COMMITTEE MEETING

Olympic Center, Lake Placid, NY

June 10, 2022

11:00 a.m.

AGENDA

- I. INTRODUCTION**
 - a. Welcome**
 - b. Roll Call**
 - c. Approval of Minutes from February 4, 2022 Governance Committee Meeting**

- II. MOTION TO CONDUCT AN EXECUTIVE SESSION**

- III. DISCUSSION**
 - a. Policy Makers for 2022/2023 and Proposed Resolution #460**
 - b. Certain Policies and Procedures and Proposed Resolution #461**
 - i. Renewed Policies**
 - c. 2022 Confidential Board Evaluation Summary**

- IV. ADJOURN**



**NYS Olympic Regional Development Authority
Governance Committee Meeting Minutes
February 4, 2022**

- Present: Chris Pushkarsh, Chair
Stephen Hunt
Diane Munro
- Also Present: Michael Pratt, President/CEO
Michelle Crew, General Counsel
- Introduction: Chair Chris Pushkarsh called the meeting to order at 1:03 p.m. and welcomed everyone in attendance.
- Chris Pushkarsh then asked for a roll call, to confirm who was present.
- Chris Pushkarsh explained that the meeting was being videotaped and a link to the recording would be made available on www.orda.org.
- Minutes: On a motion by Steve Hunt, seconded by Diane Munro, the minutes of the Governance Committee meeting held on August 20, 2021 were approved without changes.
- Discussion: The first item is the amendment to the Governance Committee Charter to Increase the Number of Committee Members.
- Michelle Crew explained that there are three members on the committee and the chair would like to be able to add additional members. The recommended change is consistent with the Public Officers Law that requires that at least three independent members make up the committee. The change would add the language that “The committee shall consist of not less than three independent members”.
- Mike Pratt asked for clarification if the Governance Committee can recommend this change to all of the committee charters.



Committee members discussed the charters, and it was determined that the Governance Committee can recommend changes for all charters.

Chris Pushkarsh asked for a motion to recommend to the board of directors to adopt the proposed amendment to the Governance Committee charter and any other committee charters as appropriate to reflect that the number of committee members should be no less than three members.

On a motion by Steve Hunt, seconded by Diane Munro.

3 in favor, 0 opposed, the motion carries unanimously.

The next item on the agenda is discussion about a schedule of meetings for the Governance Committee.

Michelle Crew explained that under the Public Authorities Law and the committee's charter the committee has a number of responsibilities. Staff recommend that the committee meeting schedule follow the recommended schedule of two meetings a year with the understanding that additional meetings could be held if that was necessary.

Diane Munro questioned if, given the scope of work that needs to be accomplished, would we schedule more meetings for now so that we can get the work done.

Chris Pushkarsh explained that with the upcoming World University Games and all the work that needs to be done in 2022 it would be appropriate, for this year, to get two meetings in and possibly a third, if needed.

The next item is the way the Governance Committee wants to approach its responsibility for Board member training and education.

Michelle Crew explained that the Authorities Budget Office (ABO) has a lot of information on recommended training and ORDA is open to any recommendations for the best way to proceed.

Committee members discussed on-going training and ways to ensure that Board members are receiving the needed training.



The next item for discussion was the Governance Committee's responsibility for Board evaluations.

Michelle Crew explained that under the Public Authorities Reform Act of 2009 annual evaluations are required to be conducted. The evaluations would be done confidentially and are required to be submitted to the ABO after they have been compiled by the Governance Committee. It is intended to be a learning tool for the Board.

Chris Pushkarsh asked for clarification on what the role of the committee is.

Michelle Crew explained that the committee would have to make sure that each of the Board members complete the evaluation. Once the results have been compiled the committee will determine if there are any changes that should be recommended to the Board. The final results need to be sent to the ABO by the end of June.

Committee members discussed how to conduct the evaluations and will have further discussions on the best way to complete the evaluations.

The final item on the agenda is an update to the ORDA mission statement.

Michelle Crew explained that ORDA has a mission statement that was adopted by the Board in 2011. The committee should decide if they feel it needs to be updated or changed.

Mike Pratt stated that the current mission statement does not include Belleayre and feels that it is time to update it.

Steve Hunt mentioned including programs in the statement to make it clear on what ORDA does.

Diane Munro suggested adding year-round activities as that is something that ORDA is striving for.

ORDA staff will incorporate suggested changes and prepare a final mission statement for Board review.



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Chair:

Chris Pushkarsh announced that the meeting's business had concluded, and Renee would be in touch concerning the date of the next committee meeting.

Adjournment:

On a motion by Diane Munro, seconded by Steve Hunt, the meeting of the Governance Committee was adjourned at 2:20 p.m.

DRAFT



NEW YORK STATE OLYMPIC REGIONAL DEVELOPMENT AUTHORITY

Resolution # 460

RESOLUTION APPROVING POLICY MAKERS FOR 2022/2023

At a meeting of the Board of Directors of the Olympic Regional Development Authority (“ORDA”) held on June 24, 2022, the Chair offered the following resolution:

WHEREAS, pursuant to the provisions of Public Officers Law § 73-a, ORDA is required to submit a statement of Board Members and ORDA employees that have been determined to be policy makers; and

WHEREAS, the New York State Joint Commission on Public Ethics (“JCOPE”) has issued guidelines which define a “policy maker” as “[t]hose officers and employees who, as a regular and significant part of their official duties, are involved in formulating or implementing the goals and policies of the State or a State agency”; and

WHEREAS, using the definition of a “policy maker” issued by JCOPE, the following statement of names/titles have been approved by the Board of Directors;

NOW, THEREFORE, BE IT RESOLVED that the ORDA Board of Directors directs that in addition to the members of the ORDA Board of Directors, the following names be reported to JCOPE for the purposes of establishing ORDA policy-makers:

Policy Makers:	Michael Pratt	President/CEO
	Vero Piacentini	Vice President of Operations
	Margaret Evatt	Director of Finance
	David McKillip	Human Resources Director
	Aaron Kellett	Whiteface Mountain General Mgr.
	James Bayse	Gore Mountain General Mgr.
	Bruce Transue	Belleayre Mountain General Mgr.
	Robert Hammond	Director of the Office of Environmental, Planning & Construction
	Michelle Crew	General Counsel
	Adam Powers	Assistant Counsel
	Edward Kowalewski, Jr.	Assistant Counsel
	Rebecca Dayton	Mt. Van Hoevenberg/Olympic Jumping Complex General Mgr.
	Paul Wiley	Director of Sport
	Darcy Norfolk	Director of Communications
	Jeremy Freeman	Director of Events
	Liz Mezzetti	Director of Marketing



NEW YORK STATE OLYMPIC REGIONAL DEVELOPMENT AUTHORITY

Resolution # 461

RESOLUTION ADOPTING CERTAIN POLICIES AND PROCEDURES

At a meeting of the Board of Directors of the Olympic Regional Development Authority (“ORDA”) held on June 24, 2022, the Chair offered the following resolution:

I. Investment of Corporate Funds Policy and Guidelines

WHEREAS, pursuant to Public Authorities Law § 2824 (1) (e), the ORDA Board of Directors is charged with establishing written policies and procedures governing investments by the authority; and

WHEREAS, pursuant to Public Authorities Law § 2925 (1) and ORDA’s Investment of Corporate Funds Policy and Guidelines (“Investment Policy”), ORDA staff involved in the investment process shall review the Investment Policy on an annual basis, or more frequently as required, and on at least an annual basis, and shall submit the Investment Policy to ORDA’s Executive Committee and Board review and approval; and

WHEREAS, pursuant to Public Authorities Law § 2925 (6) and the Investment Policy, ORDA is required to annually prepare and approve an Annual Investment Report and submit it to the Division of Budget, the Senate Finance Committee and the Assembly Ways and Means Committee, and the Office of the State Comptroller by no later than ninety (90) days after the end of the fiscal year; and

WHEREAS, annexed hereto and made a part hereof is the ORDA Investment Policy that was previously approved and adopted by the Board on September 22, 2021 and has not been changed in the interim, together with the Annual Investment Report for the Fiscal Year ending March 31, 2022; and

WHEREAS, at a duly called meeting of the Executive Committee held on June 14, 2022, the Executive Committee recommended the approval of the Investment Policy and Annual Investment Report based on the Committee’s thorough review and consideration of said Policy and Report; and

II. Background Check Policy

WHEREAS, pursuant to Public Authorities Law § 2824 (1) (e), the Board of Directors is charged with establishing written policies and procedures governing the conduct of ORDA personnel; and

WHEREAS, consistent with applicable law, ORDA has implemented and adopted a written Background Check Policy (“Policy”) to, among other purposes, determine the overall fitness for employment of a Candidate, as that term is defined in the Policy, to promote a safe work environment for other ORDA employees, to ensure the safety of the visiting public and the many athletes who utilize ORDA venues for training and competition, and to assure the protection of

Emily Stanton, Acting Secretary to the Board, being duly sworn, deposes and says:

The above Resolution # 461 was duly passed by the Board of Directors on June 24, 2022.

Signature _____

Title: Acting Secretary to the Board of Directors

Sworn before me this _____ day of June 2022

Notary Public, State of New York



BACKGROUND CHECK POLICY

I. PURPOSE AND SCOPE

In making employment decision, the Olympic Regional Development Authority (“ORDA”) is committed to the highest standards for its employees, and to complying with all applicable Federal and State statutes and regulations, as well as other applicable requirements. Accordingly, all applicants for employment with ORDA will be subject to a background check in accordance with the terms of this Policy. The information collected through a background check process is necessary to determine an applicant’s overall fitness for employment, to promote a safe work environment for other ORDA employees, and to ensure the safety of the visiting public and the many athletes who utilize ORDA venues for training and competition. It will also help to assure the protection of ORDA property, proprietary information, and other assets.

In addition, due in part to insurance requirements applicable to ORDA, and due in part to the requirements of the Safe Sport Authorization Act (Protecting Young Victims from Sexual Abuse and Safe Sport Authorization Act of 2017, 36 U.S.C. § 22051) and ORDA’s relationship with the United States Olympic and Paralympic Committee, those ORDA staff who are employed in specific titles as is further detailed herein, will be subject to ongoing background check requirements during the terms of their employment. Information derived from these ongoing background check requirements will be used by ORDA to determine the ongoing fitness of employees for the duties of the titles they occupy.

ORDA will conduct all employment background checks in accordance with the terms of this Policy. ORDA’s use of the information gained through a background check will at all times comply with New York State’s Fair Credit Reporting Act (N.Y. GEN. BUS. LAW § 380), the Federal Fair Credit Reporting Act (15 U.S.C. § 1681), and all other applicable laws, statutes, rules, and regulations including, but not limited to, New York State Correction Law Article 23-a. Should any provision of this Policy conflict with any applicable law or regulation, that provision will be considered void and all other provisions of this Policy shall remain in full force and effect.

II. ACRONYMS AND DEFINITIONS

Article 23-a – shall mean the New York State Correction Law Article 23-a, which prohibits an employer from unfairly discriminating against a person previously convicted of one or more criminal offenses.

Athlete(s) – shall mean those Team USA athletes, as that term is defined in the current ORDA-USOPC contract, using an ORDA facility in connection with training or competition. The term “Athlete(s)” does not extend to members of the general public using an ORDA facility, or to clubs or organizations that may enter into third-party agreements with ORDA for the use of an ORDA facility.

Candidate – shall mean any person who has applied for or is being considered for a full-time, part-time, or temporary/seasonal position identified in Categories 1, 2, or 3, as defined herein, as well as any current ORDA employee applying for or holding the positions and/or titles identified in Categories 1, 2, or 3.

Covered Position – shall mean any position and/or title identified in Categories 1, 2 and 3.

FCRA – shall mean the Fair Credit Reporting Act (15 U.S.C. § 1681), a U.S. Federal Government statute enacted to promote the accuracy, fairness, and privacy of consumer information contained in the files of the consumer reporting agencies.

Negative Information – shall mean a conviction for criminal conduct, a negative credit history, and/or a SafeSport disciplinary record, the nature of which has a direct bearing on a Candidate’s fitness or ability to perform one or more of the duties or responsibilities necessarily related to a Covered Position, or information about a Candidate that would involve an unreasonable risk to property or to the safety and welfare of ORDA employees and volunteers or to the general public.

ORDA – shall mean the Olympic Regional Development Authority or authorized representative of the Olympic Regional Development Authority.

Report – shall mean the results of a background check provided to ORDA by a TPA.

SafeSport – shall mean the SafeSport Authorization Act. The U.S. Congress has designated the U.S. Center for SafeSport (the “Center”) with the authority to respond to reports of sexual misconduct within the U.S. Olympic & Paralympic Movement by passing the Protecting Young Victims from Sexual Abuse and Safe Sport Authorization Act of 2017. This legislation, also known as S.534, designates the Center to serve as the independent national safe sport organization, with the additional responsibility for the Center to develop national policies and procedures to prevent the emotional, physical, and sexual abuse of amateur athletes. Through this legislation, the Center has the exclusive authority to respond to allegations of sexual abuse and sexual misconduct within the U.S. Olympic & Paralympic Movement. It also allows the Center to have discretionary jurisdiction on a case-by-case basis over any other forms of misconduct, including bullying, harassment, and physical and emotional abuse. As a USOPC Training Center, ORDA is not under the jurisdiction of the Center, but ORDA is committed to the purpose and intent of SafeSport and consistent with its agreement with the USOPC, ORDA will implement the requirements of SafeSport to the extent that such requirements do not conflict with New York State law.

TPA – shall mean third party administrator.

USOPC – shall mean the United States Olympic and Paralympic Committee.

III. APPLICABILITY

ORDA has identified the following Covered Positions as being subject to background checks in accordance with the requirements of this Policy:

Category 1 – Category 1 Covered Positions are those positions held or to be held by a Candidate for an Executive level position with fiduciary responsibilities. For the purposes of this Policy, the following MC titles shall be included in Category 1:

Assistant Director	Assistant Venue Manager
Attorney	Finance Administrator
Director	General Counsel
Venue Manager	President & Vice President

Any Candidate for a Category 1 Covered Position will be subject to a full background check as defined herein under Section 5.3 (a), as well as a Credit History Check, as defined herein under Section 5.3 (c), prior to either initial appointment or promotion into the Covered Position. Category 1 Candidates will be subject to ongoing background checks if their job responsibilities also include the responsibilities identified in Categories 2 or 3 below.

Category 2 – Category 2 Covered Positions are those positions in which the job responsibilities involve or will involve a Candidate working in snow sports/ski school at any ORDA venue. This includes any position coded to “SSC” (also known as ski school). The following titles are included in Category 2: Laborer, Ski Instructor, Labor Supervisor, Department Supervisor, Department Manager, and Program Manager.

Any Candidate for a Category 2 Covered Position will be subject to a full background check as defined herein under Section 5.3 (a), prior to initial appointment and on a reoccurring basis every three (3) years thereafter.

Category 3 – Category 3 Covered Positions are those through which a Candidate: (1) may act in a position of authority over an Athlete, as the term “position of authority” is defined in the current ORDA-USOPC agreement; (2) has regular contact with an Athlete as the term “regular contact” is defined in the current ORDA-USOPC agreement; (3) has direct contact with an Athlete in non-public spaces as that term is defined in the current ORDA-USOPC agreement; or (4) has access to Athletes in non-public spaces, as that term is defined in the current ORDA-USOPC agreement. This may include, but is not necessarily limited to, the following titles: all staff that are coded to “SPT,” also known as ski patrol; all staff that are coded to “MED,” also known as Medical; all staff that are coded to “EVT,” also known as Events, and all other staff and/or volunteers that serve in a position of authority over Athletes or who have regular contact with Athletes as described herein, which may include staff holding the following titles: Venue Manager, Vice President,

Assistant Venue Manager, Program Coordinator, Operations Supervisor, Director, Facilities Superintendent, Department Supervisor, Labor Supervisor, Ice Resurfacing Machine Operator, and Maintenance Assistant.

Any Candidate for a Category 3 Covered Position will be subject to full background checks as defined herein under Section 5.3 (a), both prior to initial appointment and on a bi-annual basis thereafter, and will be subject to supplemental background checks as defined herein under Section 5.3 (b), on an annual basis.

IV. RESPONSIBILITY

The responsibility for implementation and oversight of this Policy resides with the ORDA Office of Human Resources, unless otherwise noted herein.

V. POLICY IMPLEMENTATION

5.1 Process for Pre-Employment Background Checks

- a. A pre-employment background check will be conducted on every Candidate who has accepted a formal offer of employment or promotion into a Covered Position. A Candidate must accurately and truthfully complete all sections of the employment application including the provision of education, current employment, and prior employment history within the last seven (7) years, and criminal history if applicable. In addition to those Candidates for a Category 1 Covered Position, a Credit History Check will be conducted for any position that involves the management of ORDA's funds or financial accounts, and/or the handling of cash and/or credit cards.
- b. All job postings for a Covered Position shall include the following language:

All offers of employment for this position will be contingent upon the results of a successfully completed background check. Background checks will be conducted by a Third Party Administrator of ORDA's choosing in compliance with the requirements of the New York State Fair Credit Reporting Act (N.Y. GEN. BUS. LAW § 380) and the Federal Fair Credit Reporting Act (15 U.S.C. § 1681).

- c. All offers of employment and/or promotions into a Covered Position shall include the following statement:

This offer of employment is contingent upon the satisfactory completion of a background check. Should your background check reveal information that could result in a decision by ORDA to withdraw an offer of employment, you will be provided with a Pre-Adverse Action Notice that includes the contact information of the Third Party Administrator, a copy of the background report and a "Summary of Your Rights Under the Fair Credit Reporting Act". You will have ten (10) business days from the date of your receipt of the Pre-Adverse Action Notice to dispute the information contained in the background report

by contacting the Third Party Administrator and providing correct information regarding your criminal history, credit history, and/or SafeSport disciplinary record. Extensions may be provided to you at the sole discretion of ORDA. Should you fail to provide a response within ten (10) business days from the date of receipt of the Pre-Adverse Action Notice, or to contact ORDA within that time frame with a request for an extension of time to respond, ORDA shall inform you that your name has been withdrawn from consideration for employment. Any such action is within ORDA's sole discretion and you shall have no right to appeal or challenge such action by ORDA.

- d. All background checks will be conducted by a qualified TPA in compliance with the terms of this Policy and all applicable Federal and State statutes.
- e. Prior to conducting a background check, a Candidate will be provided with an Authorization & Disclosure Form informing the Candidate that ORDA will be requesting a Report from the TPA, the name and contacting information of the TPA, the types of information that will be provided in the Report, and the Candidate's rights to request additional information regarding the nature and scope of the Report. The authorization consists of a statement, signed by the Candidate, permitting the TPA to provide the Report to ORDA. The Authorization & Disclosure Form must be a stand-alone document that cannot be part of an employment application or any other pre-employment document.
- f. After a Candidate has consented to and signed the Authorization & Disclosure Form, the Office of Human Resources will securely submit the full name and email address of the Candidate to the TPA. The Candidate will automatically receive a secure link from the TPA with instructions for entering the information required for the TPA to initiate and conduct a background check. A Candidate must fully and accurately provide all information necessary for the TPA to complete the background check. A Candidate for a new Covered Position or promotion into a Covered Position shall not begin work in that position prior to the satisfactory completion of the required background check, and the receipt of final approval from the Office of Human Resources. If a Candidate refuses to authorize a background check, or the TPA is unable to obtain written authorization within seven (7) business days of the date of a written request for authorization, the Candidate shall be deemed to have withdrawn his/her name from consideration.
- e. Any adverse action will be evaluated in accordance with Section 5.5 herein.

5.2 Process for Ongoing Background Checks

- a. For those Candidates who hold a Covered Position that is subject to ongoing and/or supplemental background checks at the time when such background check is due, the Office of Human Resources will provide written notification to the Candidate and to the ORDA Department Head and/or Venue Management, as applicable. It will be the

responsibility of both the Candidate and the Department Head or Venue Management, as applicable, to assure that the Candidate completes and submits the Authorization & Consent Form in a timely manner. If a Candidate refuses to authorize a background check, or the TPA is unable to obtain written authorization within seven (7) business days of the date of a written request for authorization, the Candidate shall be deemed to have withdrawn his/her name from consideration and action will be taken to remove the Candidate from the Covered Position, whether by termination or by changing their job responsibilities.

- b. Any adverse action will be evaluated in accordance with Section 5.5 herein.

5.3 Background Check Components:

- a. **Full Background Checks.**

A full background check will be conducted for any Candidate for a Category 1, 2 or 3 Covered Position. A full background check will include at least the following search components:

1. Social Security Trace and Address History – confirms address history and social security number (“SSN”) provided by a Candidate and is used to identify the jurisdictions in which the searches set forth in this Policy will be conducted.
2. Criminal:
 - i. **Federal** – Felony and misdemeanor searches for criminal convictions and pending prosecutions, through the respective federal courts in those jurisdictions reported in the SSN trace, for the previous seven (7) to ten (10) years.
 - ii. **County** – Felony and misdemeanor searches for criminal convictions and pending prosecutions through the respective county courts where a Candidate has lived, worked, or was educated, in the past seven (7) years.
 - iii. **Nation Wide** – Search of multi-jurisdictional database compiled from state and county criminal record databases. Sources include court records, incarceration records, prison/inmate records, probation/parole/release information, arrest data, sex offender registries, and wants and warrants.

- b. **Supplemental Background Checks.** A supplemental off-year background check will be conducted for any Candidate who works in a title that is identified in this Policy as a Category 3 Covered Position. Supplemental background checks will be conducted using at least the following search components:

1. Nation Wide – Search of multi-jurisdictional database compiled from state and county criminal record databases. Sources include court records, incarceration records, prison/inmate records, probation/parole/release information, arrest data, sex offender registries, and wants and warrants.
 2. SafeSport Disciplinary Records – any Negative Information received from a search of SafeSport disciplinary records will be treated in a manner that is consistent with New York Law, including Article 23-a, together with the terms and conditions of this Policy.
- c. **Credit History Checks.** Credit history checks provide a snapshot of financial history, including information regarding delinquent accounts, accounts sent to collection, maximum credit limits available, court judgments, bankruptcies, and liens. This check will be conducted on Candidates for Covered Positions that have the fiduciary responsibilities set forth in this Policy.

5.4 Authorized Third Party Administrator

ORDA, in its sole discretion, will select a USOPC authorized TPA that will be a full-service screening organization that works in accordance with the recommended guidelines established by the USOPC, the terms and conditions of this Policy, and all applicable State and Federal laws.

5.5 Adverse Action

In accordance with Section 603 of the FCRA, the term “adverse action” includes all employment actions affecting a Candidate that can be considered to have a “negative impact” as that term is defined under Section 603 (k) of the FCRA. For the purposes of this Policy, a negative impact will mean the withdrawal of an offer of employment, the denial of a promotion, or a determination to terminate employment or to change an ORDA employee’s job position or responsibilities, as the result of a background check that yields Negative Information.

For any adverse action that is taken based at least in part on information contained in a Report, in accordance with Section 615 (a) of the FCRA, the Candidate will be notified by the Office of Human Resources in writing. Any such notification will be provided utilizing the process set forth below:

a. Evaluation of Background Check Results

1. In accordance with Article 23-a, ORDA will not deny or terminate employment on the basis of prior criminal convictions, except under the following circumstances:
 - i. A direct relationship between some or all of the previous criminal offenses and the specific job or position the Candidate is seeking or holds;
 - ii. When hiring or continuing to employ the individual would present an unreasonable risk to ORDA’s property, specific individuals, or the general public.

2. Where an adverse action is contemplated due to the disclosure of a criminal conviction, negative credit report, and/or SafeSport disciplinary record, ORDA will consider:
 - i. That the public policy of this State, as expressed in Article 23-a, is to encourage the licensure and employment of persons previously convicted of one or more criminal offenses;
 - ii. The specific duties and responsibilities necessarily related to the license or employment sought or held by the person; The bearing, if any, that the criminal offense or offenses for which the person was previously convicted will have on his or her fitness or ability to perform one or more such duties or responsibilities; The time which has elapsed since the occurrence of the criminal offense or offenses; The age of the person at the time of occurrence of the criminal offense or offenses; The seriousness of the offense or offenses; Any information produced by the person, or produced on his or her behalf, in regard to his or her rehabilitation and good conduct; ORDA's legitimate interest in protecting property, and the safety and welfare of specific individuals, ORDA's employees and volunteers, or the general public.
3. Should the Office of Human Resources determine that the information contained in a Report reflects that hiring or promoting the Candidate could negatively impact ORDA's interests, the Office of Human Resources will promptly notify Venue Management for the Covered Position and ORDA's Office of General Counsel, whereby a determination will be made as to whether an adverse action is warranted.
4. Should the background check yield a Report that contains no Negative Information, the Candidate will be so notified in writing by the Office of Human Resources.

b. Pre-Adverse Action Notice

1. If an adverse action is contemplated, the Office of Human Resources will issue by certified mail, return receipt requested, a written Pre-Adverse Action Notice (attached as Exhibit A) to the Candidate along with: (1) a copy of the Report; (2) contact information for the TPA including name, address, and telephone number; and (3) the "Summary of Rights under the Fair Credit Reporting Act" (attached as Exhibit B).
2. The Candidate will be given ten (10) business days from the date of receipt of the Pre-Adverse Action Notice to dispute information contained in the Report that led to the negative determination by contacting the TPA and providing correct information regarding their criminal history, credit history, and/or SafeSport disciplinary record, including evidence that they did not commit the offense (e.g., in the case of misidentification), evidence of rehabilitation or character, the length of time since the last criminal conviction, other factors relevant to the negative determination, and other extenuating circumstances, including but not limited to

disparate legal and enforcement practices. Extensions may be provided to the Candidate at the sole discretion of ORDA. Should a Candidate fail to either provide a response within ten (10) business days of the date of receipt of the Pre-Adverse Action Notice, or to request an extension of time to respond, ORDA shall inform the Candidate that his/her name has been withdrawn from consideration and/or take action to remove the Candidate from the Covered Position, whether by termination or by changing their job responsibilities. Any such action is within ORDA's sole discretion and the Candidate shall have no right to appeal or challenge such action by ORDA.

3. Upon receipt of any corrected Report, the Office of Human Resources, ORDA's Office of General Counsel, and Venue Management will discuss the information contained in the Report and make a determination in accordance with Article 23-a and other applicable laws, including FCRA and SafeSport. Said determination will be made within five (5) business days from the date the Office of Human Resources received the corrected Report from the TPA. Any such action is within ORDA's sole discretion and the Candidate shall have no right to appeal or challenge such action by ORDA.
4. Should the background check yield a Report that contains no Negative Information, the Candidate will be so notified in writing by the Office of Human Resources.

c. Adverse Action Notice

If ORDA determines to take adverse action based in whole or in part on information contained in the Report, the Office of Human Resources will issue by certified mail, return receipt requested, a written Adverse Action Notice to the Candidate that includes: (1) a description of the adverse action being taken (e.g., rejection of the application) and that the action has been taken based in whole or in part on information contained in the Report; (2) a statement that the TPA did not make the decision to take adverse action and is unable to provide the reason for such decision; and (3) the rights of the Candidate to obtain a free copy of the Report from the TPA and to dispute information contained in the Report with the TPA. Any such action is within ORDA's sole discretion and the Candidate shall have no right to appeal or challenge such action by ORDA.

5.6 Protection of Personal Information

In accordance with the requirements of Public Officers Law § 87 (2), Public Officers Law §§ 91-99, and the FCRA, all information collected through the background check process will be used solely for employment considerations and will be kept strictly confidential and protected against unauthorized access, use, and disclosure.

5.7 Record-Keeping

- a. The Report will be maintained by the Office of Human Resources and kept for a period of four (4) years from the date the Report was completed.

- b. At the expiration of the four (4) years, the Report will be deleted from the Office of Human Resources database/information system and all paper copies, if any, will be destroyed.

VI. VIOLATIONS

Violations of this Policy by Candidate, including the provision of false or fraudulent information, will result in disciplinary action up to and including termination. Any violation may also be subject to prosecution under applicable federal, state or local law.

VII. POLICY REVIEW

This Policy will be reviewed and updated on an annual basis.

Exhibit A

Date

Applicant Name
Address
City, State Zip Code

Dear [Name]:

A decision is currently pending concerning your application for employment with ORDA. Enclosed is a copy of the consumer report(s) that you authorized [TPA Name] to obtain in regard to your application for employment, together with “A Summary of Your Rights Under the Fair Credit Reporting Act.”

The contents of the report are currently under review in consideration of your employment. If the report contains any information that is inaccurate or incomplete, you must contact our office within ten (10) business days of the date of this letter so that the corrected information can be reviewed prior to an employment decision being made.

In accordance with the Fair Credit Reporting Act, you have the right to dispute the accuracy or completeness of the information contained in your report by contacting the consumer reporting agency from which we obtained the report, the name, address, and contact information of which is:

[TPA Name, Address and Contact Info]

Thank you for your interest in employment with ORDA.

Sincerely,

Office of Human Resources

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Exhibit B

Para información en español, visite www.consumerfinance.gov/learnmore o escribe a la Consumer Financial Protection Bureau, 1700 G Street N.W., Washington, DC 20552.

A Summary of Your Rights Under the Fair Credit Reporting Act

The federal Fair Credit Reporting Act (FCRA) promotes the accuracy, fairness, and privacy of information in the files of consumer reporting agencies. There are many types of consumer reporting agencies, including credit bureaus and specialty agencies (such as agencies that sell information about check writing histories, medical records, and rental history records). Here is a summary of your major rights under FCRA. **For more information, including information about additional rights, go to www.consumerfinance.gov/learnmore or write to: Consumer Financial Protection Bureau, 1700 G Street N.W., Washington, DC 20552.**

- You must be told if information in your file has been used against you. Anyone who uses a credit report or another type of consumer report to deny your application for credit, insurance, or employment – or to take another adverse action against you – must tell you, and must give you the name, address, and phone number of the agency that provided the information.
- You have the right to know what is in your file. You may request and obtain all the information about you in the files of a consumer reporting agency (your “file disclosure”). You will be required to provide proper identification, which may include your Social Security number. In many cases, the disclosure will be free. You are entitled to a free file disclosure if:
 - o a person has taken adverse action against you because of information in your credit report;
 - o you are the victim of identity theft and place a fraud alert in your file;
 - o your file contains inaccurate information as a result of fraud;
 - o you are on public assistance;
 - o you are unemployed but expect to apply for employment within 60 days.

In addition, all consumers are entitled to one free disclosure every 12 months upon request from each nationwide credit bureau and from nationwide specialty consumer reporting agencies. See www.consumerfinance.gov/learnmore for additional information.

- You have the right to ask for a credit score. Credit scores are numerical summaries of your credit-worthiness based on information from credit bureaus. You may request a credit score from consumer reporting agencies that create scores or distribute scores used in residential real property loans, but you will have to pay for it. In some mortgage transactions, you will receive credit score information for free from the mortgage lender.
- You have the right to dispute incomplete or inaccurate information. If you identify information in your file that is incomplete or inaccurate, and report it to the consumer reporting agency, the agency must investigate unless your dispute is frivolous. See www.consumerfinance.gov/learnmore for an explanation of dispute procedures.

- Consumer reporting agencies must correct or delete inaccurate, incomplete, or unverifiable information. Inaccurate, incomplete, or unverifiable information must be removed or corrected, usually within 30 days. However, a consumer reporting agency may continue to report information it has verified as accurate.
- Consumer reporting agencies may not report outdated negative information. In most cases, a consumer reporting agency may not report negative information that is more than seven years old, or bankruptcies that are more than 10 years old.
- Access to your file is limited. A consumer reporting agency may provide information about you only to people with a valid need – usually to consider an application with a creditor, insurer, employer, landlord, or other business. The FCRA specifies those with a valid need for access.
- You must give your consent for reports to be provided to employers. A consumer reporting agency may not give out information about you to your employer, or a potential employer, without your written consent given to the employer. Written consent generally is not required in the trucking industry. For more information, go to www.consumerfinance.gov/learnmore.
- You may limit “prescreened” offers of credit and insurance you get based on information in your credit report. Unsolicited “prescreened” offers for credit and insurance must include a toll-free phone number you can call if you choose to remove your name and address from the lists these offers are based on. You may opt out with the nationwide credit bureaus at 1-888-5-OPTOUT (1-888-567-8688).
- The following FCRA right applies with respect to nationwide consumer reporting agencies:

CONSUMERS HAVE THE RIGHT TO OBTAIN A SECURITY FREEZE

- You have a right to place a “security freeze” on your credit report, which will prohibit a consumer reporting agency from releasing information in your credit report without your express authorization. The security freeze is designed to prevent credit, loans, and services from being approved in your name without your consent. However, you should be aware that using a security freeze to take control over who gets access to the personal and financial information in your credit report may delay, interfere with, or prohibit the timely approval of any subsequent request or application you make regarding a new loan, credit, mortgage, or any other account involving the extension of credit.
- As an alternative to a security freeze, you have the right to place an initial or extended fraud alert on your credit file at no cost. An initial fraud alert is a 1-year alert that is placed on a consumer’s credit file. Upon seeing a fraud alert display on a consumer’s credit file, a business is required to take steps to verify the consumer’s identity before extending new credit. If you are a victim of identity theft, you are entitled to an extended fraud alert, which is a fraud alert lasting 7 years.
- A security freeze does not apply to a person or entity, or its affiliates, or collection agencies acting on behalf of the person or entity, with which you have an existing account that

requests information in your credit report for the purposes of reviewing or collecting the account. Reviewing the account includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements.

- You may seek damages from violators. If a consumer reporting agency, or, in some cases, a user of consumer reports or a furnisher of information to a consumer reporting agency violates the FCRA, you may be able to sue in state or federal court.
- Identity theft victims and active duty military personnel have additional rights. For more information, visit www.consumerfinance.gov/learnmore .

States may enforce the FCRA, and many states have their own consumer reporting laws. In some cases, you may have more rights under state law. For more information, contact your state or local consumer protection agency or your state Attorney General. For information about your federal rights, contact:

Type of Business:	Contact:
<p>1. a. Banks, savings associations, and credit unions with total assets of over \$10 billion and their affiliates</p> <p>b. Such affiliates that are not banks, savings associations, or credit unions also should list, in addition to the CFPB:</p>	<p>a. Consumer Financial Protection Bureau 1700 G Street, N.W. Washington, DC 20552</p> <p>b. Federal Trade Commission: Consumer Response Center – FCRA 600 Pennsylvania Avenue, NW Washington, DC 20580 (877) 382-4357</p>
<p>2. To the extent not included in item 1 above:</p> <p>a. National banks, federal savings associations, and federal branches and federal agencies of foreign banks</p> <p>b. State member banks, branches and agencies of foreign banks (other than federal branches, federal agencies, and Insured State Branches of Foreign Banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act</p> <p>c. Nonmember Insured Banks, Insured State Branches of Foreign Banks, and insured state savings associations</p> <p>d. Federal Credit Unions</p>	<p>a. Office of the Comptroller of the Currency Customer Assistance Group 1301 McKinney Street, Suite 3450 Houston, TX 77010-9050</p> <p>b. Federal Reserve Consumer Help Center P.O. Box. 1200 Minneapolis, MN 55480</p> <p>c. FDIC Consumer Response Center 1100 Walnut Street, Box #11 Kansas City, MO 64106</p> <p>d. National Credit Union Administration Office of Consumer Protection (OCP) Division of Consumer Compliance and Outreach (DCCO) 1775 Duke Street Alexandria, VA 22314</p>
<p>3. Air carriers</p>	<p>Asst. General Counsel for Aviation Enforcement & Proceedings, Aviation Consumer Protection Division, Department of Transportation 1200 New Jersey Avenue, S.E. Washington, DC 20590</p>
<p>4. Creditors Subject to the Surface Transportation Board</p>	<p>Office of Proceedings, Surface Transportation Board, Department of Transportation 395 E Street, S.W. Washington, DC 20423</p>
<p>5. Creditors Subject to the Packers and Stockyards Act, 1921</p>	<p>Nearest Packers and Stockyards Administration area supervisor</p>
<p>6. Small Business Investment Companies</p>	<p>Associate Deputy Administrator for Capital Access, United States Small Business Administration 409 Third Street, S.W., 8th Floor Washington, DC 20416</p>
<p>7. Brokers and Dealers</p>	<p>Securities and Exchange Commission 100 F Street, N.E. Washington, DC 20549</p>
<p>8. Federal Land Banks, Federal Land Bank Associations, Federal Intermediate Credit Banks, and Production Credit Associations</p>	<p>Farm Credit Administration 1501 Farm Credit Drive McLean, VA 22102-5090</p>
<p>9. Retailers, Finance Companies, and All Other Creditors Not Listed Above</p>	<p>FTC Regional Office for region in which the creditor operates or Federal Trade Commission: Consumer Response Center – FCRA 600 Pennsylvania Avenue, NW Washington, DC 20580 (877) 382-4357</p>

NOTICE SPECIFIC TO NEW YORK: You have the right, upon request, to be informed of whether or not a consumer report was requested. If a consumer report was requested, you will be provided with the name and address of the consumer reporting agency furnishing the report. You may inspect and receive a copy of the report by contacting that agency. For a summary of your rights under New York State law, see N.Y. Correct. Law §§ 750–55.