



NEW YORK STATE
**OLYMPIC REGIONAL
DEVELOPMENT AUTHORITY**

GOVERNANCE COMMITTEE MEETING
Olympic Center, Lake Placid, NY
December 2, 2022
1:00 p.m.

AGENDA

- I. INTRODUCTION**
 - a. Welcome
 - b. Roll Call
 - c. Approval of Minutes from June 10, 2022 Governance Committee Meeting

- II. DISCUSSION**
 - a. Update to ORDA Mission Statement and Proposed Resolution # 471
 - b. Certain Policies and Procedures and Proposed Resolution # 472
 - c. Discussion of evaluation process

- III. ADJOURN**



**NYS Olympic Regional Development Authority
Governance Committee Meeting Minutes
June 10, 2022**

Present: Chris Pushkarsh, Chair
Steve Hunt
Diane Munro
Art Lussi

Also Present: Michael Pratt, President/CEO
Michelle Crew, General Counsel
Joe Martens, Board Chair

Introduction: Chair Chris Pushkarsh called the meeting to order at 11:00 a.m. and welcomed everyone in attendance.

Chris Pushkarsh then asked for a roll call, and confirmed a quorum was present.

Chris Pushkarsh explained that the meeting was being videotaped and a link to the recording would be made available at www.orda.org.

Minutes: On a motion by Diane Munro, seconded by Steve Hunt, the minutes of the Governance Committee meeting held on February 4, 2022 were approved without changes.

Executive Session: On a motion by Art Lussi, seconded by Steve Hunt, the Governance Committee entered into Executive Session to discuss a matter made confidential by state law, which is exempt from Open Meetings Law under Section 108.

On a motion by, seconded by, the Executive Committee exited Executive Session and resumed public session. No action was taken during Executive Session.

Public Session: The first item on the agenda is the designation of ORDA Policy Makers for 2022/2023 and proposed Resolution #460.

Michelle Crew explained that it is an annual Resolution that designates ORDA staff that are identified as policy makers. It is



required under the Public Officers Law that this be approved by the Board of Directors and submitted to the New York State Joint Commission on Public Ethics.

Chris Pushkarsh asked for a motion to recommend that the Board of Directors adopt the proposed Resolution #460 as presented.

On a motion by Steve Hunt, seconded by Art Lussi.

4 in favor, 0 opposed, 0 abstained, the motion carries unanimously.

The next item on the agenda is the review of certain policies and procedures and proposed Resolution #461.

Michelle Crew explained that ORDA has policies that are required to be annually reviewed and approved by the full board. The background check policy was the same policy that was approved last year and there have been no changes.

Chris Pushkarsh asked for a motion to recommend that the Board of Directors adopt the proposed Resolution #461 as presented.

On a motion by Diane Munro, seconded by Art Lussi.

4 in favor, 0 opposed, 0 abstained, the motion carries unanimously.

The next item on the agenda is the 2022 confidential board evaluation summary. Chris Pushkarsh explained that the 2022 confidential board evaluation summary was approved and would be submitted to the required oversight entities listed in the Public Authorities Law.

Diane Munro mentioned the mission statement and the need to keep this item a priority within the Governance Committee work.

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 Art Lussi, the meeting of the Governance Committee was adjourned at 11:38 a.m.



NEW YORK STATE OLYMPIC REGIONAL DEVELOPMENT AUTHORITY

Resolution # 471

RESOLUTION APPROVING UPDATE TO ORDA MISSION STATEMENT

At a meeting of the Board of Directors of the Olympic Regional Development Authority (“ORDA”) held on December 16, 2022, the Chair offered the following resolution:

WHEREAS, ORDA is a public authority created by the laws of New York State and, as such, is subject to Public Authorities Law; and

WHEREAS, pursuant to Public Authorities Law § 2824-a, ORDA is required to adopt a brief mission statement expressing the purpose and goals of ORDA; and

WHEREAS, by Resolution #259 duly passed by the ORDA Board of Directors on September 28, 2011, the Board of Directors approved ORDA’s Mission Statement in accordance with the Public Authorities Law; and

WHEREAS, ORDA has found and determined that it is both necessary and desirable to amend and update its existing Mission Statement; and

WHEREAS, at a duly called meeting of the Governance Committee held on December 2, 2022, the Governance Committee, whose responsibility it is to develop and recommend to the Board of Directors any policies or other documents relating to effective ORDA governance, and regularly review and update such policies or documents, thoroughly reviewed and considered the proposed revised Mission Statement and based thereon, recommended approval by the Board of Directors;

NOW, THEREFORE, BE IT RESOLVED that after careful consideration and due deliberation, the ORDA Board of Directors hereby approves and adopts the following as ORDA’s Mission Statement, effective immediately, which will be posted and maintained on the ORDA website for access by the public, and a copy of which will be filed with the Authorities Budget Office in accordance with Public Authorities Law:



NEW YORK STATE OLYMPIC REGIONAL DEVELOPMENT AUTHORITY

Resolution # 472

RESOLUTION ADOPTING CERTAIN POLICIES AND PROCEDURES

At a meeting of the Board of Directors of the Olympic Regional Development Authority (“ORDA”) held on December 16, 2022, the Chair offered the following resolution:

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

I. Gender-Based Violence and the Workplace Policy

WHEREAS, pursuant to Governor’s Executive Order No. 17 (“EO17”), by January 1, 2023, each state agency is required to formulate and issue a Gender-Based Violence and the Workplace Policy, with implementation procedures, designed to strengthen the State’s procedures for addressing domestic and other forms of gender-based violence; and

WHEREAS, for the purposes of EO17, the term “state agency” includes public authorities such as ORDA; and

WHEREAS, in October 2022, the Office for the Prevention of Domestic Violence (“OPDV”) issued a model policy that contained the elements that State agencies are expected to incorporate into a draft Gender-Based Violence and the Workplace Policy; and

WHEREAS, on or before November 9, 2022, each State agency was required to submit a draft policy to OPDV for its review and comment; and

WHEREAS, ORDA complied with the required deadline and submitted a draft policy, which OPDV commented on and which has been revised and finalized in accordance with those comments, a copy of which is attached hereto and made a part hereof; and

II. Background Check Policy

WHEREAS, by Resolution #406 duly passed by the ORDA Board of Directors on January 22, 2021, the Board of Directors adopted ORDA’s Background Check Policy (“Policy”); and

WHEREAS, the Policy was implemented, in part, to allow ORDA to 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

Renee Fitzgerald, Secretary to the Board, being duly sworn, deposes and says:

The above Resolution # 472 was duly passed by the Board of Directors on December 16, 2022.

Signature _____

Title: Secretary to the Board of Directors

Sworn before me this _____ day of December, 2022.

Notary Public, State of New York



Gender-Based Violence and the Workplace Policy Effective:

I. Introduction

The purpose of this Policy is to identify and prescribe ORDA practices that will respond effectively to employees' needs as victims of domestic and gender-based violence, and to promote safety in the workplace. This Policy is being issued in accordance with Governor's Executive Order No. 17 (EO 17), which requires that by January 1, 2023, each state agency formulate and issue a Domestic Violence and the Workplace Policy, with implementation procedures, that will strengthen New York State's procedures for addressing domestic and other forms of gender-based violence. For the purposes of EO 17, the term "state agency" or "agency" includes public authorities such as ORDA.

II. Policy Statement

Domestic violence and other forms of gender-based violence permeate the lives and harm thousands of New Yorkers each day, with tragic, destructive, and often fatal results. The impacts of such violence are felt in the workplace, regardless of where the incidents are taking place, and have the potential to compromise the safety of victims, co-workers, and clients, while resulting in lost productivity, increased health care costs, absenteeism, and employee turnover. ORDA recognizes that as an employer it has both a moral and legal obligation to its employees who may be experiencing victimization.

New York State law recognizes that domestic and gender-based violence occurs within a wide spectrum of relationships, therefore ORDA will take every appropriate measure to prevent and/or address domestic and gender-based violence as it impacts the workplace, while also recognizing the rights of victims to have self-determination and the need to respond in a survivor-centered, trauma-informed, and culturally responsive manner. All valid Orders of Protection (OP) will be enforced by ORDA, and all protections of this Policy will apply. This Policy shall apply to all ORDA employees who are victims of gender-based violence, regardless of where the incidents took place.

Under the mandates of this Policy, ORDA hereby, to the fullest extent possible and without violating any existing rules, regulations, statutory requirements, contractual obligations, or collective bargaining agreements, designates and directs appropriate management, supervisory, and/or human resources staff to implement this Gender-Based Violence and the Workplace Policy covering the following topics:

A. Agency responsibilities;

- B. Definitions;
- C. Persons covered by the Policy;
- D. Non-discrimination and Responsive Personnel Policies for Employees who are victims of domestic and gender-based violence;
- E. Non-Retaliation Policy;
- F. Workplace Safety Plans;
- G. Accountability for Employees who perpetrate domestic or gender-based violence;
- H. Training;
- I. Data Collection and Reporting;
- J. Violations of this Policy.

III. **Definitions**

For the purposes of this Policy, the following terms will have the definitions set forth below:

- A. Domestic Violence: A pattern of coercive behavior, including acts or threatened acts, that is used by a perpetrator to gain power and control over a victim, as defined in New York State Social Service Law § 459-a, including but not limited to physical, sexual, psychological, economic, and/or emotional abuse, or the threat of any/all of these acts.
- B. Domestic Violence Agency Liaison (DVAL): A designated employee of ORDA who has been trained by the Office for the Prevention of Domestic Violence (OPDV) to assist victimized employees, who shall ensure ORDA's compliance with this Gender-Based Violence and the Workplace Policy, and who serves as the primary contact for OPDV.
- C. Employee: Solely for purposes of this Policy, the term "employee" shall include all full-time staff, part-time staff, seasonal and/or temporary staff, contract employees, per diem staff, and those who perform services for ORDA as official volunteers.
- D. Gender-Based Violence: Violence or threats that happen because of someone's sex, gender, sexual orientation, gender identity or expression, or other related characteristics. Gender-based violence is an umbrella term that includes domestic violence, sex-based discrimination, sexual harassment, sexual assault, and sexual violence, and can also include stalking or human trafficking.
- E. ORDA: All venues and other workplaces operated, managed, and/or maintained by the State of New York Olympic Regional Development Authority.
- F. Order of Protection (OP) (Commonly referred to as "Restraining Order" or "Stay-Away Order"): An order issued by any court to limit the behavior of someone who harms or threatens to harm another person. Orders of protection may direct the offending party not

to injure, threaten, or harass the victim, their family, or any other person(s) listed in the order and may include but not be limited to ordering the person who is the subject of the order to: stay away from the home, school, business, or place of employment of the victim; vacate a shared residence; abide by any active orders of custody and visitation; and/or surrender any firearms.

- G. Perpetrator or abusive partner or person who causes harm: A person who commits or threatens to commit coercive or violent acts, which may include but is not limited to physical, psychological, sexual, economic, and/or emotional abuse against a victim.
- H. Sexual Harassment: Consistent with the New York State Human Rights Law and ORDA policy, unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual's sex when:
1. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment, even if the reporting individual is not the intended target of the sexual harassment;
 2. Such conduct is made either explicitly or implicitly a term or condition of employment; or
 3. Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment.
- I. Victim of domestic violence (Executive Law § 292 [34] [Human Rights Law]; New York State Social Services Law § 459-a): Any person over the age of sixteen (16), any married person, or any parent¹ accompanied by their minor child or children in situations in which such person or such person's child is a victim of an act which would constitute a violation of the penal law including but not limited to, acts constituting disorderly conduct, harassment, aggravated harassment, sexual misconduct, forcible touching, sexual abuse, stalking, criminal mischief, menacing, reckless endangerment, kidnapping, assault, attempted assault, attempted murder, criminal obstruction of breathing or blood circulation, or strangulation, identity theft, grand larceny, or coercion; and
1. Such act or acts have resulted in actual physical or emotional injury or have created a substantial risk of physical or emotional harm to such person or such person's child; and
 2. Such act or acts are or are alleged to have been committed by a family or household member with the term "family or household members" defined to mean:
 - a. Persons related by consanguinity or affinity (blood or a person's relation to blood relatives of their spouse);
 - b. Persons legally married to one another;

¹ The term "Parent" means a natural or adoptive parent or any individual lawfully charged with a minor child's care or custody.

- c. Persons formerly married to one another regardless of whether they still reside in the same household;
 - d. Persons who have a child in common regardless of whether such persons are married or have married or have lived together at any time;
 - e. Unrelated persons who are continually or at regular intervals living in the same household or who in the past continually or at regular intervals lived in the same household;
 - f. Persons who are not related by consanguinity or affinity and who are or have been in an intimate relationship regardless of whether such persons have lived together at any time. Factors that may be considered in determining whether a relationship is an “intimate relationship” include but are not limited to: the nature or type of relationship, regardless of whether the relationship is sexual in nature; the frequency of interaction between the persons; and the duration of the relationship. *Neither a casual acquaintance nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute an “intimate relationship”;* or
 - g. Any other category of individuals deemed to be a victim of domestic violence as defined by the Office of Children and Family Services in regulation.
- J. Workplace: For the purposes of this Policy, any permanent or temporary location away from an ORDA employee’s domicile where the employee performs any work-related duty in the course of their employment with ORDA.

IV. Persons covered by this Policy

This Policy shall extend to all ORDA employees as that term is defined herein.

V. Statement of Confidentiality

ORDA recognizes and respects each of its employees’ right to privacy and confidentiality. All information, including employee disclosures about victimization, shall be kept confidential to the extent permitted by law and organizational policy. In any other instance ORDA will first obtain written consent from the victimized employee. In all circumstances ORDA will provide notice to the victimized employee, and any confidential information will be given to only those deemed necessary for securing the safety of the victim, other employees, or the workplace. The information given will be as limited in scope as possible, and anyone receiving such information may be required to sign an acknowledgement of confidentiality stating that any information they have been given will be used only for the intended purpose. ORDA will not share information in circumstances where doing so would create a substantial risk of imminent danger to the victimized employee, other employees, or the workplace.

VI. ORDA Responsibilities

- A. ORDA shall designate at least one employee as its Domestic Violence Agency Liaison (DVAL). Where possible, the liaison shall be an employee with advocacy, social work, or

counseling experience. To fulfill this requirement, ORDA has designated the Director of Human Resources as the DVAL.

- B. Employees who work as Employee Assistance Program (EAP) Coordinators shall not be designated as the DVAL.
- C. The current contact information for all DVALs and their supervisors will be communicated to OPDV by emailing workplace@opdv.ny.gov. Any updates to this information shall be provided within two weeks of the change.
- D. Employee Awareness
 - 1. ORDA will work to increase awareness regarding domestic and gender-based violence and create an informed workforce by providing available sources of assistance for those employees who experience domestic or gender-based violence.
 - 2. ORDA will increase awareness regarding possible disciplinary practices that may be implemented in the event of retaliation or used with employees who perpetrate acts of domestic or gender-based violence.
 - 3. ORDA will include this Policy as part of the written materials that are provided to all new employees, and will also provide this Policy to all employees on an annual basis.
 - 4. A detailed explanation of employee rights under this Policy will be given during new employee orientation, including information for contacting the DVAL.
 - 5. If ORDA suspects that an employee is a victim of domestic and gender-based violence but the employee has not disclosed victimization, ORDA will refer the employee to:
 - a. The DVAL
 - b. The local or Statewide EAP
1-800-822-0244
 - c. The NYS Domestic and Sexual Violence Hotline
1-800-942-6906 or chat/text 1-844-997-2121
 - d. If applicable, the Statewide hotline for workplace sexual harassment
1-800-427-2773
 - e. Local programs serving victims of domestic and sexual violence:
 - i. **For Clinton, Essex, and Franklin Counties:**
Behavioral Health Services – STOP Domestic Violence
1-888-563-6904
Provides both residential and non-residential domestic violence services. OCFS Licensed and Approved.

First Step to New Beginnings Domestic Violence Program-
Community Connections of Franklin County
518-481-8748

Provides non-residential domestic violence services. OCFS
Licensed and Approved.

Three Sisters Program of the Saint Regis Mohawk Tribe
855-374-7837

Provides both residential and non-residential domestic violence
services.

ii. **For Warren, Washington, and Saratoga Counties:**
Catholic Charities of Warren, Washington and Saratoga Counties –
The Domestic Violence Project

518-793-9496

Provides both residential and non-residential domestic violence
services. OCFS Licensed and Approved.

Wellspring

518-584-8188

Provides both residential and non-residential domestic violence
services. OCFS Licensed and Approved.

In Our Own Voices LGBT Domestic Violence Support Line

518-432-4341

Provides non-residential domestic violence services (Monday -
Friday 9:00 AM -9:00 PM).

Mechanicville Area Community Service Center Domestic Violence
Advocacy Program

518-664-4008

Provides non-residential domestic violence services. OCFS
Licensed and Approved.

iii. **For Delaware and Ulster Counties:**

Family of Woodstock Inc.

845-679-2485

Provides both residential and non-residential domestic violence
services. OCFS Licensed and Approved.

Delaware Opportunities, Inc. – Safe Against Violence

607-746-6278 or 866-457-7233

Provides both residential and non-residential domestic violence
services. OCFS Licensed and Approved.

iv. **Other local resources in New York State can be found at:
<https://opdv.ny.gov/domestic-violence-service-providers>**

6. ORDA will post information on domestic and gender-based violence, this Policy, and any additional available resources at each ORDA venue or other workplace in the following places where employees will be able to utilize the information without having to request it or be seen removing it:
 - a. The bulletin boards in the administration building and in the employee time clock areas of each ORDA Venue or other workplace;
 - b. Restrooms;
 - c. Kitchen and lounge areas, and other frequently trafficked areas;
 - d. Employee Workbright accounts;
 - e. The Human Resources offices in each Venue or other ORDA workplace;
 - f. Other locations where necessary and appropriate.
7. The information to be made available will include:
 - a. Sources of assistance;
 - b. Contact information for the DVAL;
 - c. EAP information;
 - d. Human Resources staff;
 - e. The NYS Domestic and Sexual Violence Hotline Number; and
 - f. Contact information for local domestic violence programs.
8. Referrals will be offered to anyone who discloses they are a victim of domestic or gender-based violence, as follows to:
 - a. The DVAL;
 - b. EAP;
 - c. The NYS Domestic and Sexual Violence Hotline (or the Statewide hotline for workplace sexual harassment, as may be appropriate), and
 - d. Any local programs serving victims of domestic and sexual violence.
9. Additional referrals will be made to the resources that will best meet the employee's needs.
10. To the extent possible ORDA will conduct programs and activities throughout the year to increase awareness about domestic and gender-based violence such as:
 - a. Brown bag lunch discussions;

- b. Presentations by local domestic and gender-based violence programs or OPDV.

VII. DVAL Responsibilities

- A. Ensuring ORDA-wide implementation of, and compliance with, this Gender-Based Violence and the Workplace Policy.
- B. Ensuring that victimized employees are aware of and understand this Policy and their rights.
- C. Upon notification that an employee is a victim of domestic or gender-based violence, providing the employee with confidential support services including referrals to:
 - 1. EAP;
 - 2. The NYS Domestic and Sexual Violence Hotline (or the Statewide hotline for workplace sexual harassment, as may be appropriate), and
 - 3. Any local programs serving victims of domestic and sexual violence.
- D. Ensuring that the victimized employee is informed of all possible options available to them such as the use of alternative scheduling or a change in work location, and assisting the employee in identifying the best use of attendance and leave benefits.
- E. Ensuring that the victimized employee is aware of and receiving any necessary accommodations as outlined in Sections X and XII of this Policy.
- F. Ensuring that all employees receive a copy of this Policy annually, and regularly receive information about how to contact the DVAL and understand what supportive services are offered by ORDA.
- G. Conducting basic workplace safety strategizing with victimized employees.
- H. Serving as the primary contact for OPDV, including reporting bi-annual data.

VIII. Responsibilities of the Office of Human Resources

- A. All ORDA Human Resources staff shall ensure that ORDA establishes a workplace culture that is safe and supportive for anyone who has experienced domestic or gender-based violence by communicating all relevant information and assuring that the necessary resources are available to victims, and further ensuring that abusive behavior by any employee will not be tolerated.
- B. ORDA Human Resources staff shall ensure that all employees who are required under the terms of this Policy to attend training from OPDV, timely complete all such training.
- C. ORDA Human Resources staff shall ensure that all employees shall receive a copy of this policy upon hire as well annually, as well as information about how to contact the DVAL and what supportive services are offered by ORDA.

- D. ORDA Human Resources staff shall ensure that any employee who discloses being a victim of domestic or gender-based violence is aware of and receiving any necessary accommodations. Through the DVAL, Human Resources staff shall consult with ORDA leadership and Counsel, and OPDV Counsel as appropriate, to address complex cases.
- E. ORDA Human Resources staff shall work with the DVAL, Counsel, and ORDA executive management, to assist managers and supervisors and take whatever steps are necessary to ensure accountability for any employee who violates this Policy.

IX. Responsibilities of Managers and Supervisors

- A. All managers and supervisors shall ensure that any employee who discloses being a victim of domestic or gender-based violence is aware of this Policy and understands this Policy and their rights, including the right to request accommodations or time off as discussed below.
- B. If any employee discloses being a victim of domestic or gender-based violence, or if a supervisor suspects that their employee may be a victim of domestic or gender-based violence, the Supervisor shall refer the employee to:
 - 1. The DVAL;
 - 2. EAP;
 - 3. The NYS Domestic and Sexual Violence Hotline (or the Statewide hotline for workplace sexual harassment, as may be appropriate); and
 - 4. Any local programs serving victims of domestic and sexual violence.

There is no mandatory reporting of domestic or gender-based violence, unless it may constitute sexual harassment as defined under the terms of this Policy and the Equal Employment Opportunity in New York Rights and Responsibilities Handbook, which ORDA has adopted as its policy on Equal Employment Opportunity.

X. Non-discrimination and Responsive Personnel Policies

In accordance with applicable law and policy, ORDA's policies and procedures will endeavor to be trauma-informed, survivor-centered, and culturally responsive to victims' needs, and will not discriminate. Under the New York State Human Rights Law (Executive Law § 292 [22]) victims of domestic violence are a protected class, and all persons covered by this Policy are protected from discrimination in the workplace on the basis of status as a victim of domestic violence, and on the basis of sex, sexual orientation, gender identity, and gender expression.

- A. ORDA will not refuse to hire or license and may not terminate someone solely based on their status as a victim of domestic violence.
- B. ORDA will not discriminate against victims of domestic violence in compensation, terms, conditions, or privileges of employment.

- C. ORDA prohibits inquiries about an applicant's status as a current or past victim of domestic violence and will not make any employment decisions based on assumptions or actual knowledge about someone's status as a current or past victim of domestic violence. ORDA may inquire about status as a victim of domestic violence in order to provide reasonable accommodations.
- D. ORDA will allow any employee who has disclosed their status as a victim of domestic or gender-based violence (or disclosed that a family member is a victim of domestic or gender-based violence) and who must be out of work for a reasonable time to use accrued sick leave² for the following purposes:
1. To obtain services from a domestic violence shelter, rape crisis center, or other services program;
 2. To participate in safety planning, temporarily or permanently relocate, or take other actions to increase the safety of the employee or employee's family members;
 3. To meet with an attorney or other social services provider to obtain information and advice on, and prepare for or participate in any criminal or civil proceeding;
 4. To file a complaint or domestic incident report with law enforcement;
 5. To meet with a district attorney's office;
 6. To enroll children in a new school;
 7. To address issues relating to technology or financial abuse; or
 8. To take any other actions necessary to ensure the health or safety of the employee or the employee's family member or to protect those who associate or work with the employee including the attendance of court or administrative proceedings.
- E. Employees can choose to use appropriate leave accruals to cover any absences, if available. If the employee does not have adequate leave accruals to cover the absence or chooses not to charge leave accruals, the absence shall be treated as leave without pay. In certain qualifying circumstances, employees who are victims of domestic violence may be eligible for leave under the Family and Medical Leave Act and/or a Reasonable Accommodation pursuant to the NYS Human Rights Law. Questions regarding leave for victims or subpoenaed witnesses should be directed to the ORDA DVAL.
- F. Any employee who must be absent from work to utilize accommodations in this section is entitled to the continuation of any health insurance coverage provided by ORDA to which the employee is otherwise entitled during any such absence, in accordance with any existing collective bargaining agreements, regulations, and ORDA policy.
- G. Employees who must be absent to utilize accommodations as listed in this section shall provide ORDA with reasonable advanced notice of the absence whenever possible. Such

² Labor Law § 196-b (4).

notice should be provided to the employee's immediate supervisor and to the appropriate Human Resources staff.

- H. ORDA will also grant time off, with one prior day of notification, and will not penalize any employee who, as a victim or witness of a criminal offense, is: appearing as a witness; consulting with a district attorney; or exercising their rights as provided by law.³
- I. ORDA recognizes that there may be occurrences when an employee is absent due to incidents of domestic or gender-based violence where they are unable to follow agency protocol to report the absence. In that situation, the employee may lack documentation, may be unable to obtain documentation or may not want to share documentation containing confidential information. ORDA will not require the disclosure of confidential information relating to an absence from work due to domestic violence, a sexual offense, stalking, or human trafficking, as a condition of providing sick leave.
- J. An employee who is a victim of domestic violence or gender-based violence who separates from a covered family member due to an incident or incidents of domestic or gender-based violence will be allowed to make reasonable changes in benefits at any time during the calendar year, where possible and in accordance with statute, regulation, contract, and ORDA policy.
- K. ORDA recognizes that victims of domestic and gender-based violence may experience temporary work performance difficulties or be unable to complete certain job aspects because of safety reasons (examples include overnight travel, "off" hour shifts, etc.). If it is found that an employee's work performance is being affected as a result of being a victim of domestic or gender-based violence, ORDA will work with the employee to try to create a satisfactory resolution, including, but not limited to, specific work plans, the ability to take leave, provision of reasonable accommodations, referrals to the DVAL, EAP, and/or the local domestic violence service provider. OPDV is available for case-specific technical assistance as needed. Employees will be given clear information regarding performance expectations, priorities, and performance evaluations. Employees should be aware that not all employee requests for resolutions can be accommodated. If a disciplinary process is initiated, special care will be taken to consider all aspects of the victimized employee's situation, and all available options will be explored in trying to resolve the performance problems including making a referral to the DVAL, EAP, domestic violence program or other relevant services, consistent with existing collective bargaining unit agreements, statute, regulations, and ORDA policy.
- L. If all reasonable measures have been exhausted to resolve related performance problems of an employee who is a victim of domestic or gender-based violence, but the performance problems persist and the employee is terminated or voluntarily separates from employment, ORDA will inform the employee of their potential eligibility for unemployment insurance and ORDA will respond quickly to any requests for information that may be needed in the claims process. New York State law provides that a victim of domestic violence who voluntarily separates from employment may, under certain circumstances, be eligible for unemployment insurance benefits.⁴

³ Penal Law § 215.14

⁴ NYS Labor Law § 593 (1) (b) (i)

- M. New York State law prohibits insurance companies and health maintenance organizations from discriminating against domestic violence victims by prohibiting status as a domestic violence victim to be considered a “pre-existing condition.” Insurance companies may not deny or cancel an insurance policy or require a higher premium or payment because the insured party is a current or former victim of domestic violence.⁵
- N. Sex, sexual orientation, gender identity, and gender expression are all protected classes under the New York State Human Rights Law. Sexual harassment is a form of sex discrimination and is unlawful under the New York State Human Rights Law § 296.1, Human Rights Law § 296-c (for interns), Human Rights Law § 296-d (for non-employees working in the workplace), and Title VII, the Federal Civil Rights Act of 1964. Gender-based violence may constitute sexual harassment when it subjects an individual to inferior terms, conditions, or privileges of employment. ORDA’s sexual harassment and discrimination policy may be found in each employee’s Workbright account and at <https://orda.org/about-us/policies/>.
- O. For all forms of discrimination and harassment, if an employee, including an intern or contractor working in at an ORDA venue or other workplace, experiences sexual harassment or discrimination on the basis of their status as a victim of domestic or other gender-based violence, or observes discrimination in the workplace, the employee may file a complaint at <https://oer.ny.gov/anti-discrimination-investigations> either directly or by contacting ORDA’s Office of Human Resources, or by filling out the complaint form found at <https://orda.org/about-us/policies/>.
- P. Any complaint of potential discrimination, whether verbal or written, will be investigated. Furthermore, ORDA requires that any supervisory or managerial employee who observes or otherwise becomes aware of conduct of a sexually harassing nature report such conduct so that it can be investigated. ORDA will maintain the confidentiality of the complainant to the extent practical.

XI. Non-Retaliation Policy

- A. ORDA will not engage in any retaliatory practices against any employee who discloses that they are a victim of domestic or gender-based violence, or any employee seeking accommodations or to exercise their rights under this Policy.
- B. In accordance with ORDA policies and procedures, ORDA will not retaliate against, tolerate retaliation by any supervisor or manager, terminate, or discipline any employee for reporting information about alleged incidents of domestic violence that may have been committed by an employee, including those in management positions.
- C. Retaliatory practices may include, but are not limited to, fewer promotions, inappropriate jokes, snide comments, excluding a victimized employee from conversations, etc., and may be carried out by anyone, not just the original perpetrator. Retaliation includes commencing discipline against a victimized employee for actions taken to promote their safety.

⁵ NYS Insurance Law § 2612

- D. Any employee engaging in retaliatory practices may be subject to disciplinary actions. If you believe you have been subject to retaliatory practices, please see Section XVI: Violations of this Policy.

XII. Workplace Safety Plans

ORDA will have workplace safety response plans in place, including procedures for reporting to supervisors, managers, or contacting law enforcement, if necessary, should an event take place in the workplace. ORDA's workplace violence incident report is available to the Office of Human Resources.

- A. ORDA will comply and assist with the enforcement of all known Orders of Protection (OP).
- B. If requested by the victim or by law enforcement, ORDA will provide any relevant information regarding an alleged violation of an OP.
- C. All ORDA employees are encouraged to disclose the existence of, or any information concerning any active OP to the DVAL or designated Human Resources staff member at their Venue or other ORDA workplace. Copies of OPs will be maintained in a locked, confidential location, separately from the employee's personnel file. In the event of an emergency or that the OP needs to be presented to law enforcement, the DVAL or designated Human Resources staff member, or a member of ORDA executive staff shall retrieve and present the OP.
- D. *Any modification or revocation of the OP should be provided to the DVAL immediately, and the DVAL shall assure that relevant Human Resources and/or executive staff are aware of such modification or revocation.*
- E. When requested by the victimized employee, the DVAL and/or designated Human Resources staff will work with the employee to develop a plan for best increasing safety for the victimized employee, other employees, and the ORDA Venue or other workplace. Options may include, but are not limited to:
 - 1. Providing front desk security or reception staff with a copy of the OP with a photo of the perpetrator;
 - 2. Protocols for reporting to law enforcement;
 - 3. Allowing the employee to work staggered hours, an "off shift", or move to a different work location, either temporarily or permanently;
 - 4. Temporary reassignment of certain duties, such as overnight travel;
 - 5. Reassignment of parking space;
 - 6. Providing an escort for entry and exit from the workplace;
 - 7. Escorting or allowing law enforcement to escort a perpetrator out of the building and off the workplace premises;

8. Working with the employee to address any identified concerns about the use of technology;
 9. Assigning a new email account or phone number if the perpetrator has been able to access the existing accounts;
 10. Creating a personalized safety plan in consultation with the local domestic or sexual violence program;
 11. Allowing the employee to work from an alternate work station until further action is taken, if the employee works directly with the perpetrator; or
 12. If an OP is in place and has been violated (i.e. by perpetrator showing up at workplace of victim), requiring the reporting of the violation to law enforcement.
- F. If the circumstances indicate a need for ORDA to take steps to increase safety for the victim, other employees, and the Venue, Agency should follow their Workplace Violence Policy.

XIII. Accountability for Employees who Perpetrate Acts of Domestic or Gender-Based Violence

- A. ORDA will hold accountable any employee who is found to have engaged in behaviors including but not limited to:
1. Using ORDA or State resources, including time, to commit an act of domestic or gender-based violence;
 2. Committing an act of domestic or gender-based violence from or at an ORDA venue or other property, or from any location conducting State business, except for locations from which employees are telecommuting; or
 3. Using their job-related authority and/or State resources to negatively affect victims of domestic or gender-based violence and/or to assist a perpetrator in locating a victim and/or in perpetrating an act of domestic or gender-based violence.
- B. Acts of domestic or gender-based violence that occur outside of the workplace can subject a person to administrative and/or disciplinary action.
- C. If ORDA has found that an employee has committed any act of gender-based violence, including making threats or harassment at or from the workplace, or using any ORDA or State resources such as work time, ORDA or State owned telephones or cell phones, e-mail, or by any other means, the employee's Supervisor, in conjunction with the Director of Human Resources, shall take any and all steps necessary to hold the employee accountable through administrative and/or disciplinary action in accordance with existing ORDA policy, applicable collective bargaining agreements, applicable statutes and/or regulations. This should include referrals to Accountability Programs for Persons who Cause Harm. In these instances, ORDA will work with the Office of Prevention for Domestic to determine what program is best suited for the employee.

- D. Actions may include, but are not limited to:
1. Placing the employee on administrative leave;
 2. Issuing a cease and desist memo;
 3. Removing/modifying the employee's chain of supervision pending an official report;
 4. Relocation of the employee alleged to have committed the abuse, to another work site;
 5. Surrender of work cell phone, laptop, or other ORDA-issued equipment;
 6. Placing an employee on probation;
 7. Mandated participation in an Accountability Programs for Person who Cause Harm;
 8. Suspension without pay; or
 9. Termination.
- E. ORDA will determine if corrective action or disciplinary action is warranted, in accordance with existing policies and procedures, existing collective bargaining agreements, relevant statutes and/or regulation if ORDA has received verification that an employee is responsible for any gender-based violence-related offense or is the respondent on any OP including temporary, final, and/or out-of-State orders because of a gender-based violence related offense, and said employee has any job functions that include:
1. The authority to take actions that directly impact victims of gender-based violence domestic violence; and/or
 2. Actions which may protect perpetrators from appropriate consequences for their behavior.
- F. Any employee who intentionally uses the authority of their employment and/or misuses any ORDA or other State resources in order to engage in any of the following, shall be subject to corrective or disciplinary action, in accordance with existing policies and procedures, collective bargaining agreements; applicable statutes and/or regulations:
1. Negatively impact any victim of gender-based violence;
 2. Assist a perpetrator in locating a victim;
 3. Assist a perpetrator in perpetrating any act of gender-based violence;
 4. Protect a perpetrator from receiving appropriate consequences; or
 5. Otherwise retaliate against a victim of gender-based violence.

- G. *Any ORDA employee who would like to report information about an alleged act of gender-based violence committed by another ORDA employee may do so by contacting the Director of Human Resources, the Anti-Discrimination Investigations Division at the NYS Office for Employee Relations (<https://antidiscrimination.oer.ny.gov/>), or the NYS Inspector General's Office, by calling the toll-free hotline at 1-800-367-4448. Trained staff will discuss the specifics of your complaint.*

XIV. Training

- A. The DVAL:
1. Shall complete a Gender-Based Violence and the Workplace training provided by OPDV.
 2. Shall complete an initial one-day training provided by OPDV.
 3. Shall attend quarterly meetings hosted by OPDV, which will provide ongoing training and technical assistance. Appropriate managers, supervisors, Employee Assistance Program staff, and human resources personnel, union and labor representatives, may also attend the OPDV DVAL one-day or quarterly trainings.
- B. EAP Staff: All ORDA employees who function as EAP coordinators must participate in annual training provided by OPDV on Gender-Based Violence and the Workplace training.
- C. Human Resources: All employees who are employed in human resources positions must participate in two annual trainings provided by OPDV:
1. Gender-Based Violence and the Workplace training, and
 2. Gender-Based Violence Workplace Safety Planning training.
- D. Supervisors: All employees who are supervisors must participate in an annual Gender-Based Violence and the Workplace training provided by OPDV.
- E. Additional employees: To the extent possible, ORDA will work through OPDV to implement annual training for all employees regarding gender-based violence and the workplace.

XV. Data Collection and Reporting to OPDV

- A. Information regarding employees who are victims of domestic or gender-based violence, as well as those who are disciplined for violating this Policy, will be maintained by the DVAL and reported to OPDV on a bi-annual basis, and at any time upon request from OPDV. Reporting to OPDV will be done in aggregate form without any personally identifying information. Data from January through June will be due no later than July 30, and data from July through December will be due no later than January 30.
- B. The following information will be collected, maintained, and reported to OPDV:
1. To the best of ORDA's ability, all incidents of gender-based violence that take place at an ORDA venue or other workplace, or while an employee is on ORDA

time, shall be documented consistent with applicable law and ORDA policy, categorized by domestic violence and sexual violence;

2. The general nature of the incidents that occurred in an ORDA Venue or other workplace;
3. The number of employees who report being a victim of current or past domestic violence;
4. The number of employees who make contact with the ORDA DVAL with concerns that a co-worker is experiencing domestic violence or gender-based violence;
5. The number of employees who are referred for discipline in accordance with section XIII of this Policy;
6. The number of employees who contact the DVAL to request information on domestic violence services;
7. The number of referrals made to domestic violence service providers, EAPs, or other applicable services;
8. The number of orders of protection that are reported to ORDA.

XVI. Violations of this Policy

- A. Any employee who would like to report any alleged violations of this Policy may do so by contacting OPDV, ORDA's Director of Human Resources, or the NYS Inspector General's Office, by calling the toll-free hotline at **1-800-367-4448** where trained staff will discuss the specifics of your complaint.
- B. For complaints of workplace discrimination, employees may contact the Anti-Discrimination Investigations Division at the NYS Office for Employee Relations (<https://antidiscrimination.oer.ny.gov/>). This includes complaints related to denials of reasonable accommodations.



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 holding the positions and/or titles identified in Category 3 and who are subject to ongoing background checks.

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 identified as follows:

- a. 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.
- b. Those positions in which the job responsibilities involve or will involve a Candidate working in a retail store at any ORDA venue. This includes any position coded to “RET” (also known as retail).
- c. Those positions in which the job responsibilities involve or will involve a Candidate operating a shuttle bus with the capability of transporting 15 or more passengers to and/or

from any ORDA venue. This includes any position that requires a New York State Commercial Driver's License with a Passenger Endorsement.

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 nonpublic 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 standalone 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 §§ 9199, 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

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 (1888-567-8688).
- 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.