



## **Gender-Based Violence and the Workplace Policy Effective January 1, 2023**

### **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 parent<sup>1</sup> 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;
    - c. Persons formerly married to one another regardless of whether they still reside in the same household;

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

- 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](mailto: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:

David McKillip  
Director of Human Resources  
[dmckillip@orda.org](mailto:dmckillip@orda.org)  
518-302-5307 (office)  
518-524-5943 (cell)

- 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 leave<sup>2</sup> 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 notice should be provided to the employee's immediate supervisor and to the appropriate Human Resources staff.

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<sup>2</sup> Labor Law § 196-b (4).

- 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.<sup>3</sup>
- 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.<sup>4</sup>
- M. New York State law prohibits insurance companies and health maintenance organizations from discriminating against domestic violence victims by prohibiting status as a domestic

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<sup>3</sup> Penal Law § 215.14

<sup>4</sup> NYS Labor Law § 593 (1) (b) (i)

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.<sup>5</sup>

- 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.
- 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.

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<sup>5</sup> NYS Insurance Law § 2612

## **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.