



NEW YORK STATE  
**OLYMPIC REGIONAL  
DEVELOPMENT AUTHORITY**

**BOARD OF DIRECTORS MEETING**  
**Lake Placid Conference Center, Lake Placid, NY**  
**June 26, 2024**  
**1:00 p.m.**

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**AGENDA**

- I. INTRODUCTION**
  - a. Roll Call
  - b. Approval of Minutes from April 12, 2024 Board Meeting
  
- II. DISCUSSION**
  - a. Governance Committee Report
  - b. Audit Committee Report
  - c. Executive Committee Report
  - d. President’s Report
  
- III. NEW BUSINESS**
  - A. Resolutions**
    - Resolution #536 – Resolution Approving Policy Makers for 2024/2025
    - Resolution #537 – Resolution Adopting Certain Policies and Procedures
    - Resolution #538 – Resolution Approving Olympic Regional Development Authority Annual Report
    - Resolution #539 – Resolution Approving Independent Auditor’s Report
    - Resolution #540 – Resolution Committing Capital and Granting Approval for the President & CEO to Enter Into an Agreement for the Purchase of Snowgrooming Equipment
  
- IV. ADJOURN**



NEW YORK STATE

# OLYMPIC REGIONAL DEVELOPMENT AUTHORITY

## Board Meeting Minutes April 12, 2024

Present: Joe Martens, Chair  
Cliff Donaldson  
Steve Hunt  
Betty Little  
Arthur Lussi  
Diane Munro  
Chris Pushkarsh  
Jeff Stefanko  
Elinor Tatum

Also Present: Ashley Walden, President & CEO  
Michelle Crew, General Counsel

Introduction: Joe Martens called the meeting to order at 1:02 p.m. and welcomed everyone in attendance.

Joe Martens explained that the meeting was being videotaped and a link to the recording would be made available at [www.orda.org](http://www.orda.org).

Joe Martens then asked for a roll call, and confirmed a quorum was present.

Minutes: On a motion by Cliff Donaldson, seconded by Chris Pushkarsh, the minutes of the Board of Directors meeting held on February 2, 2024, were approved without changes.

Governance Committee: Chris Pushkarsh explained that the Governance Committee has met twice since the last Board meeting. On March 8, 2024, the Committee discussed proposed revisions and updates to the Olympic Authority's Code of Ethics Policy and proposed Resolution #523. The Governance Committee recommends that the Board of Directors adopt Resolution #523 as presented.

On April 12, 2024, the Governance Committee met to discuss the mission statement performance measures and proposed Resolution #524. The Public Authorities Law and the Authorities Budget Office require annual submissions of the Authority's Mission Statement and performance measures, and a list of stakeholders and their reasonable expectations. The Governance Committee

recommends that the Board of Directors adopt Resolution #524 as amended.

President's Report: Ashley Walden explained that the Olympic Authority is beginning to wrap up winter operations and is starting to transition to summer operations. Ashley provided a late season revenue update and explained that as of April 8, across all of the venues, the visitation was up 3% and revenue was up 4%. This increase is good considering the challenging weather patterns.

Ashley Walden reviewed the major events schedule and discussed some of the events that have been held this year.

Among a large array of events across the venues, the Olympic Jumping Complex hosted the FIS World Cup Ski Jumping and the NorAm Aerials, Gore Mountain hosted the Holeshott Cross Tour, Mt. Van Hoevenberg and Whiteface hosted the U.S. Collegiate Ski & Snowboard Association, the Olympic Center hosted the ECAC Championships, and Mt. Van Hoevenberg hosted the US Ski & Snowboard Junior National Championships for Nordic.

Ashley Walden shared a video showing a few of the highlights for 23/24.

New Business: Resolutions:

**#523** Resolution Approving and Adopting a Revised and Updated Olympic Authority Code of Ethics

On a motion by Diane Munro, seconded by Elinor Tatum.

9 in favor, 0 opposed, 0 abstained, Resolution #523 adopted.

**#524** Resolution Approving and Adopting Performance Measurements for the Olympic Authority's Mission

Motion by Steve Hunt and seconded by Art Lussi.

On a motion by Betty Little, seconded by Elinor Tatum, and carried unanimously, pending resolution #524 was amended to include the list of performance measures recommended by the Governance Committee.

The Board then voted on the motion to adopt proposed resolution #524 as amended.

9 in favor, 0 opposed, 0 abstained, the motion carried unanimously.

**#525** Resolution Committing Capital and Granting Approval for the President & CEO to Enter Into Agreements for the Olympic Jumping Complex

On a motion by Cliff Donaldson, seconded by Diane Munro.

Ashley Walden explained that this resolution includes the design and procurement of a wind curtain system. This system would protect athletes if the wind picks up, provide the opportunity to have more training, and protect future events from having to delay or postpone competitions. Additionally, there would be improvements to the towers, and improved separate of public and athlete areas.

9 in favor, 0 opposed, 0 abstained, Resolution #525 adopted.

**#526** Resolution Committing Capital and Granting Approval for the President & CEO to Enter Into Agreements for the Mt. Van Hoevenberg Sports Complex

On a motion by Steve Hunt, seconded by Cliff Donaldson.

Ashley Walden explained that since the track was originally built there have been technology changes and one of the improvements would be a new fiber optics system to enhance event timing, cameras, broadcast, security, and athlete training. The track profile will be improved to help with refrigeration, athlete training, and maintenance. There will also be improvements to the roller loop to include widening and adding additional drainage.

9 in favor, 0 opposed, 0 abstained, Resolution #526 adopted.

**#527** Resolution Committing Capital and Granting Approval for the President & CEO to Enter Into Agreements for Belleayre Mountain Snowmaking, Trails and Electrical Improvements

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

Ashley Walden explained that some of the snowmaking pipelines that run up the mountain need updates, so they are able to support the high efficiency snow guns. There will also be upgrades to the pump and valve houses, expansion of snowmaking on the racing trail, an expansion of the learning area, and upgrades to the electrical distribution system.

8 in favor, 0 opposed, 1 abstained, Resolution #527 adopted. Elinor Tatum abstained from voting.

**#528** Resolution Committing Capital and Granting Approval for the President & CEO to Enter Into an Agreement for the Belleayre Mountain Carpet Conveyor System

On a motion by Betty Little, seconded by Art Lussi.

Ashley Walden explained that this resolution would allow for a new carpet conveyor system that would help support the expansion of the learning area.

8 in favor, 0 opposed, 1 abstained, Resolution #528 adopted. Elinor Tatum abstained from voting.

**#529** Resolution Committing Capital and Granting Approval for the President & CEO to Enter Into Agreements for Gore Mountain Snowmaking, Trails, and Electrical Improvements

On a motion by Elinor Tatum, seconded by Cliff Donaldson.

Ashley Walden explained that this resolution is for replacing and installing new pipelines, electrical improvements, and Little Gore Mountain terrain improvements.

9 in favor, 0 opposed, 0 abstained, Resolution #529 adopted.

**#530** Resolution Committing Capital and Granting Approval for the President & CEO to Enter Into Agreements for Gore Mountain Gondola Improvements

On a motion by Betty Little, seconded by Cliff Donaldson.

Ashley Walden explained that at the February 2 Board meeting there was a resolution for the replacement of the Gondola Cabins. This resolution is for the purchase of the Gondola grips to accompany the new cabins.

9 in favor, 0 opposed, 0 abstained, Resolution #530 adopted.

**#531** Resolution Committee Capital and Granting Approval for the President & CEO to Enter Into Agreements for Whiteface Mountain Snowmaking, Trails and Electrical Improvements

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

Ashley Walden explained that this resolution includes improvements to some of the valve houses, continued trail work, and additional electrical work that will support the snowmaking infrastructure.

9 in favor, 0 opposed, 0 abstained, Resolution #531 adopted.

**#532** Resolution Committee Capital and Granting Approval for the President & CEO to Enter Into Agreements for Whiteface Mountain Snowmaking Pump House #1 Improvements

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

Ashley Walden explained that this resolution will allow repairs to the stop gate to prevent debris from entering the pumphouse. Additionally, a new gantry crane would be installed to help remove any of the debris that would be in the water before it enters the pipelines and potentially damages the snowmaking infrastructure.

9 in favor, 0 opposed, 0 abstained, Resolution #532 adopted.

**#533** Resolution Committee Capital and Granting Approval for the President & CEO to Enter Into Agreements for Whiteface Mountain Lodge Improvements

On a motion by Cliff Donaldson, seconded by Betty Little.

Ashley Walden explained that this resolution is to address the three lodges at Whiteface Mountain. The Base Lodge has energy conservation and building envelope improvements planned. Legacy Lodge needs an expansion of the snow melt system on the deck and some of the siding needs to be replaced. Bear Den Lodge needs improvements to accommodate increased usage, improve flow, and optimize space for guest services and snow sports school.

9 in favor, 0 opposed, 0 abstained, Resolution #533 adopted.

**#534** Resolution Committee Capital and Granting Approval for the President & CEO to Enter Into Agreements for the Whiteface Mountain Little Whiteface Lift Replacement

On a motion by Diane Munro, seconded by Elinor Tatum.

Ashley Walden explained that this resolution is for a new fixed grip chairlift, which will utilize new towers and foundations from mid-station down, and repurposing of towers and foundations from mid-station up.

9 in favor, 0 opposed, 0 abstained, Resolution #534 adopted.

**#535** Resolution Committee Capital and Granting Approval for the President & CEO to Enter Into Agreements for Improvements to the Whiteface Mountain Veterans' Memorial Highway

On a motion by Betty Little, seconded by Cliff Donaldson.

Ashley Walden explained that this resolution is for improving the wastewater system and completing the masonry work at the castle. It will also improve the wastewater system and roofing system at the Toll House. The Round House will have continued masonry, electrical, and mechanical upgrades.

9 in favor, 0 opposed, 0 abstained, Resolution #535 adopted.

Executive Session: On a motion by Cliff Donaldson, seconded by Elinor Tatum, the Olympic Authority Board of Directors entered into Executive Session for the purpose of discussing a matter leading to the employment, promotion, demotion, discipline, suspension, dismissal, or removal of a particular person, as well as for the purpose of obtaining legal advice on proposed litigation involving a personnel matter.

After a motion and second, the Olympic Authority Board of Directors voted to exit Executive Session and resumed public session. No action was taken during Executive Session.

Chair: Joe Martens announced that the meeting's business had concluded.

Adjournment: On a motion by Cliff Donaldson, seconded by Steve Hunt, the meeting of the Olympic Regional Development Authority Board of Directors was adjourned at 3:13 p.m.



**NEW YORK STATE OLYMPIC REGIONAL DEVELOPMENT AUTHORITY**

**Resolution #536**

**RESOLUTION APPROVING POLICY MAKERS FOR 2024/2025**

At a meeting of the Board of Directors of the Olympic Regional Development Authority (“Olympic Authority”) held on June 26, 2024, the Chair offered the following resolution:

**WHEREAS**, pursuant to the provisions of Public Officers Law § 73-a, the Olympic Authority is required to submit an annual statement of Board Members and Olympic Authority employees who have been determined to be policy makers, to the New York State Commission on Ethics and Lobbying in Government (“Ethics Commission”); and

**WHEREAS**, the Ethics Commission regulations at 19 NYCRR Part 932 define the term “policy maker” as “an officer, employee, director, commissioner or member of a State Agency (other than a multi-state authority) who has been determined to hold a policy-making position pursuant to Public Officers Law § 73-a (1) (c);” and

**WHEREAS**, the Olympic Authority is a State agency for the purposes of compliance with the Public Officers Law; and

**WHEREAS**, in accordance with the requirements of the Public Officers Law and implementing regulations, the Olympic Authority has determined that the staff listed in this resolution hold policy-making positions, which such list is required to be filed with the Ethics Commission each year during the month of February; and

**WHEREAS**, the Olympic Authority is required to keep this list up to date after the annual filing, by amending it within thirty (30) days of the undertaking of policy-making responsibilities by an employee not currently included in the list of staff who hold policy-making positions; and

**WHEREAS**, at a duly called meeting of the Governance Committee held on June 11, 2024, the Governance Committee approved the list of names and titles of Olympic Authority staff who hold policy-making positions set forth herein, and recommended that the list be presented to the Board of Directors for approval for submission by the Olympic Authority to the Ethics Commission when due, and further recommend that Olympic Authority staff be granted the authority to amend and submit an updated list in the event that becomes necessary during the course of the year;

**NOW, THEREFORE, BE IT RESOLVED THAT**, after careful consideration and due deliberation, the Olympic Authority Board of Directors hereby approves the list of Olympic Authority policy makers set forth below and authorize Olympic Authority staff to amend the list



\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

The above Resolution #536 was duly passed by the Board of Directors on June 26, 2024.

Signature \_\_\_\_\_

Title: Secretary to the Board of Directors

Sworn to before me this \_\_\_\_\_ day of June, 2024.

\_\_\_\_\_  
Notary Public, State of New York



## NEW YORK STATE OLYMPIC REGIONAL DEVELOPMENT AUTHORITY

### Resolution #537

#### **RESOLUTION ADOPTING CERTAIN POLICIES AND PROCEDURES**

At a meeting of the Board of Directors of the Olympic Regional Development Authority (“Olympic Authority”) held on June 26, 2024, the Chair offered the following resolution:

**WHEREAS**, pursuant to Public Authorities Law § 2824 (1), the Olympic Authority Board of Directors is charged with establishing written policies and procedures governing personnel, including policies protecting employees from retaliation for disclosing information concerning acts of wrongdoing, misconduct, malfeasance, or other inappropriate behavior by an employee or board member, codes of ethics, investments, travel, the acquisition of real property, the disposition of real and personal property, the procurement of goods and services, and other policies that will enable the Olympic Authority to accomplish its mission and statutory responsibilities; and

**WHEREAS**, consistent with applicable law, the Olympic Authority has implemented and adopted comprehensive policies, procedures and guidelines that are to be reviewed and approved by the Board annually; and

**WHEREAS**, annexed hereto and made a part hereof, are the following policies of the Olympic Authority that have been approved and adopted by the Board:

- Background Check Policy
- Code of Ethics Policy
- Defense and Indemnification Policy
- NYS Equal Employment Opportunity Rights & Responsibilities Handbook
- Open Data Policy
- Paid Family Leave Policy
- Procedural Rules for Remote Participation in Board Meetings
- Property Disposition Policy
- Service Animal Policy
- Whistleblower Policy
- Investment of Corporate Funds Policy
- Gender-Based Violence and the Workplace Policy

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

**WHEREAS**, at a duly called meeting of the Executive Committee held on June 11, 2024, the Executive Committee recommended the Board’s approval of the Investment Policy and the approval of the Annual Investment Report, based on the Committee’s thorough review and consideration of such policy and report; and

**WHEREAS**, the Olympic Authority’s Background Check Policy has been amended further to include additional Olympic Authority personnel, as further detailed in the Background Check Policy, who will be subject to initial background check requirements as a condition of employment; and

**WHEREAS**, Section IV.F. of the Olympic Authority’s Management Confidential Employee Handbook has been amended to reflect that certain designated holidays may be recorded as comp holidays for those employees who need to work on a designated holiday, as reflected in the revised Section IV.F. that is annexed to this resolution along with the policies discussed herein; and

**WHEREAS**, at a duly called meeting of the Governance Committee held on June 11, 2024, the Governance Committee recommended the approval of the revised Background Check Policy, as amended, and of the revised Section IV.F. of the Management Confidential Employee Handbook, based on the Committee’s thorough review and consideration of such revised policies;

**NOW, THEREFORE, BE IT RESOLVED THAT**, after careful consideration and due deliberation, the Olympic Authority Board of Directors hereby approves and adopts the policies of the Olympic Authority annexed hereto, including the Annual Investment Report and revised Background Check Policy, effective immediately, and that with the exception of the revised section of the Management Confidential Employee Handbook, each of the approved policies will be posted with other Board materials on the Olympic Authority website for access by the public; and

**BE IT FURTHER RESOLVED THAT**, in accordance with this approval, the Olympic Authority Board of Directors hereby authorizes the submission of the Annual Investment Report to the Division of Budget, the Senate Finance Committee and the Assembly Ways and Means Committee, and the Office of the State Comptroller by no later than ninety (90) days after the end of the fiscal year.

**SO RESOLVED,**

MOVED BY: \_\_\_\_\_

SECONDED BY: \_\_\_\_\_

and

ADOPTED BY the following vote:

In Favor:

Excused/Abstained:

Against:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_


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

The above Resolution #537 was duly passed by the Board of Directors on June 26, 2024.

Signature \_\_\_\_\_  
Title: Secretary to the Board of Directors

Sworn to before me this \_\_\_\_\_ day of June, 2024.

\_\_\_\_\_  
Notary Public, State of New York



NEW YORK STATE  
**OLYMPIC REGIONAL  
DEVELOPMENT AUTHORITY**

**BACKGROUND CHECK POLICY**

**Effective** \_\_\_\_\_

**I. PURPOSE AND SCOPE**

In making employment decisions, the Olympic Regional Development Authority (“Olympic Authority”) 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, applicants for employment in specified positions with the Olympic Authority will be subject to a background check in accordance with the terms of this Policy. The information collected through a background check is necessary to determine the overall fitness of an applicant for employment, to ensure the promotion of a safe work environment for other Olympic Authority employees, to ensure the protection of Olympic Authority assets and information, and to ensure the safety of the visiting public and the many athletes who utilize Olympic Authority venues for training and competition.

In addition, due in part to certain insurance requirements applicable to the Olympic Authority, 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 the Olympic Authority’s relationship with the United States Olympic and Paralympic Committee (“USOPC”), for those Olympic Authority staff who are employed in specific titles defined herein, there will be a requirement for ongoing background checks during the terms of their employment. Information derived from these ongoing background check requirements will be used by the Olympic Authority to determine the continued fitness of those employees for the duties of the titles they hold.

The Olympic Authority will conduct all employment background checks in accordance with the terms of this Policy. The Olympic Authority’s use of the information gained through a background check will at all times comply with New York State’s Fair Credit Reporting Act (General Business 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**

a. **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.

b. **Athlete(s)** – shall mean those Team USA athletes, as that term is defined in the current Olympic Authority-USOPC contract, using an Olympic Authority facility in connection with training or competition. The term “Athlete(s)” does not extend to members of the general public using an Olympic

Authority facility, or to clubs or organizations that may enter into third-party agreements with the Olympic Authority for the use of an Olympic Authority facility.

c. **Candidate** – shall mean any person who has applied for or is being considered for a full-time, part-time, or temporary/seasonal position, including those positions identified in Categories 1, 2, or 3 herein. This definition also includes any current Olympic Authority employee holding positions and/or titles identified in Category 2 or Category 3, who are subject to ongoing background checks.

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

e. **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.

f. **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 or welfare of Olympic Authority employees or volunteers, or to the general public.

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

h. **Report** – shall mean the results of a background check provided to the Olympic Authority by a TPA.

i. **SafeSport** – shall mean the Safe Sport 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 and Paralympic Movement by passing the Protecting Young Victims from Sexual Abuse and Safe Sport Authorization Act of 2017. This legislation designates the Center 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 and 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. The Olympic Authority is not under the jurisdiction of the Center. However, as a USOPC Training Center, the Olympic Authority is committed to the purpose and intent of SafeSport and consistent with its Agreement with the USOPC, the Olympic Authority will implement the requirements of SafeSport to the extent that such requirements do not conflict with New York State law.

j. **TPA** – shall mean Third-Party Administrator.

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

### III. APPLICABILITY

Every Candidate applying for a full-time, part-time, or temporary/seasonal position will be subject to a multi-jurisdictional search of sex offender registries. The reason for this requirement is to ensure the safety and security of all venue guests and Olympic Authority staff. Each Candidate will be evaluated in accordance with Section 5.5 herein.

In addition, the Olympic Authority has identified the following Covered Positions as being subject to background checks in accordance with the requirements of this Policy:

a. 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:

President & CEO	Vice President
General Counsel	Attorney
Venue Manager	Assistant Venue Manager
Director	Assistant Director
Lake Placid Museum Director	

Category 1 Covered Positions will also include any Candidate for a position in which the job responsibilities involve or will involve a Candidate working in the information technology department at any Olympic Authority venue. This includes any position coded to “TEC” and any Candidate whose job responsibilities include, but are not limited to, the following: implementing and maintaining hardware and software infrastructure; providing technical support and offering troubleshooting solutions for both hardware and software issues; managing cybersecurity protocols to safeguard sensitive data; conducting regular system audits to ensure compliance with established policies; overseeing network performance for optimal operational efficacy; and collaborating with various departments to assess and fulfill technology-related needs.

Category 1 Covered Positions will also include any Candidate whose job responsibilities include or will encompass handling financial transactions in any form, managing financial data, accessing financial systems, software, or databases containing sensitive information, overseeing monetary resources (including the management of petty cash, cash registers, or other forms of physical currency), approving financial transactions, signing checks, authorizing payments, or gaining access to Personal, Private, Sensitive Information as part of their job responsibilities.

Personal, Private, Sensitive Information (PPSI) refers to any information that could potentially identify an individual and expose them to identity theft or other forms of risk if disclosed. This may include, but is not limited to, Social Security numbers, financial account details, medical records, and other confidential personal data. Proper handling of PPSI is crucial for maintaining the integrity and security of the Olympic Authority and is considered a key responsibility for applicable Category 1 Covered Positions.

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 a 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 herein.

b. Category 2 – Category 2 Covered Positions are identified as follows:

1. Those positions in which the job responsibilities involve or will involve a Candidate working in snow sports/ski school at any Olympic Authority venue. This includes any position coded to “SSC” (also known as ski school). The following titles are explicitly included in Category 2: Laborer, Ski Instructor, Labor Supervisor, Department Supervisor, Department Manager, Program Manager.
2. Those positions in which the job responsibilities involve or will involve a Candidate working as a certified lifeguard at any Olympic Authority venue. The title “Lifeguard” is explicitly included in Category 2.
3. Those positions in which the job responsibilities involve or will involve a Candidate working at a retail store at any Olympic Authority venue or at a rental store at any Olympic Authority venue. This explicitly includes any position coded to “RET” (also known as retail) and “RNT” (also known as rental).
4. 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 Olympic Authority venue. This includes any position that requires a New York State Commercial Driver’s License with a Passenger Endorsement.
5. Those positions in which the job responsibilities involve or will involve a Candidate operating the Mountain Coaster or Zip Line at an Olympic Authority venue. This explicitly includes any position coded to “MCR” or “ZIP”.
6. Those positions in which the job responsibilities involve or will involve a Candidate having close contact with venue guests, including but not necessarily limited to: Olympic Authority venue attractions and/or venue experiences such as the Climbing Wall, Mountain Biking, Discover Luge, Discover Biathlon, and youth group venue tours.

Any Candidate for a Category 2 Covered Position, including any Candidate under the age of 18, 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.

c. 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 Olympic Authority-USOPC Agreement; (2) has regular contact with an Athlete as the term “regular contact” is defined in the current Olympic Authority-USOPC Agreement; (3) has direct contact with an Athlete in nonpublic spaces as that term is defined in the current Olympic Authority-USOPC Agreement; or (4) has access to Athletes in non-public spaces, as that term is defined in the current Olympic Authority-USOPC Agreement. This explicitly includes, but is not necessarily limited to, the following titles: all staff coded to “SPT,” also known as ski patrol; all staff coded to “MED,” also known as Medical; all staff coded to “EVT,” also known as Events, Ice Resurfacing Machine Operators, and all other staff and/or volunteers who serve in a position of authority over Athletes or who have regular contact with Athletes as those terms are defined in the Olympic Authority-USOPC Agreement.

Any Candidate for a Category 3 Covered Position shall undergo a comprehensive background check as set forth in Section 5.3 (a) herein, both prior to initial appointment and bi-annually thereafter. Additionally, any Candidate for a Category 3 Covered Position will be subject to a supplemental, partial background check as set forth in Section 5.3 (b) herein, during the intervening years.<sup>1</sup>

#### **IV. RESPONSIBILITY**

The responsibility for implementation and oversight of this Policy resides with the Olympic Authority 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.

b. All job postings for a Covered Position shall include the following statement:

*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 the Olympic Authority's choosing in compliance with the requirements of the New York State Fair Credit Reporting Act (General Business 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 the Olympic Authority 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 the Olympic Authority. Should you fail to provide a*

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<sup>1</sup> Candidates eligible for Category 3 Covered Positions, who are subject to background checks under this Section, do not include individuals under the age of 18.

*response within ten (10) business days from the date of receipt of the Pre-Adverse Action Notice, or to contact the Olympic Authority within that time frame with a request for an extension of time to respond, the Olympic Authority will inform you that your name has been withdrawn from consideration for employment. Any such action is within the Olympic Authority's sole discretion and you shall have no right to appeal or challenge such action by the Olympic Authority.*

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 laws.

e. Prior to conducting a background check, a Candidate will be provided with an Authorization & Disclosure Form informing the Candidate that the Olympic Authority 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 the Olympic Authority. 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 their name from consideration.

g. Any Adverse Action will be evaluated in accordance with Section 5.5 herein.

## **5.2 Process for Ongoing Background Checks**

a. For any Candidates who holds 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 Olympic Authority 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 their name from consideration and the Olympic Authority will take action, in its sole discretion, 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.
3. SafeSport Disciplinary Records (**Category 3 Covered Positions Only**) – any Negative Information obtained from a search of SafeSport disciplinary records, conducted via the centralized disciplinary database found at <https://uscenterforsafesport.org/response-and-resolution/centralized-disciplinary-database/>, will be treated in a manner consistent with New York Law, including Article 23-A, in accordance with the terms and conditions of this Policy.

- b. **Supplemental Background Checks.** A supplemental off-year background check will be conducted every other year 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 obtained from a search of SafeSport disciplinary records, conducted via the centralized disciplinary database

found at <https://uscenterforsafesport.org/response-and-resolution/centralized-disciplinary-database/>, will be treated in a manner consistent with New York Law, including Article 23-A, as well as in accordance 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**

The Olympic Authority, in its sole discretion, will select a USOPC authorized TPA that will act as a full-service screening organization working 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 Olympic Authority 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 based on Negative 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, the Olympic Authority 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 any previous criminal offense(s) 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 the Olympic Authority’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, the Olympic Authority 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 any criminal offense(s) for which the person was previously convicted will have on their fitness or ability to perform one or more such duties or responsibilities; the time that has elapsed since the occurrence of any criminal offense(s); the age of the person at the time of occurrence of any criminal offense(s); the seriousness of any criminal offense(s); any information produced by the person, or produced on their behalf, in regard to their rehabilitation and good conduct; the Olympic Authority's legitimate interest in protecting property, and the safety and welfare of specific individuals, the Olympic Authority's employees and volunteers, or the general public.

3. Should the Office of Human Resources determine that any Negative Information contained in a Report reflects that hiring or promoting a Candidate could negatively impact the Olympic Authority's interests, the Office of Human Resources will promptly notify the Department head or Venue management for to whom the Candidate has applied for a Covered Position or for whom the Candidate is currently working in a Covered Position, and the Olympic Authority'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 (see Exhibit A attached hereto).

**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 hereto).

2. The Candidate will be given ten (10) business days from the date of receipt of the Pre-Adverse Action Notice to dispute any 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 the Olympic Authority. 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, the Olympic Authority shall inform the Candidate that their 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 the Olympic Authority's sole discretion and the Candidate shall have no right to appeal or challenge such action by the Olympic Authority.

3. Upon receipt of any corrected Report, the Office of Human Resources, the Olympic Authority's Office of General Counsel, and either the Department head or Venue management, as applicable, 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 receives the corrected Report from the TPA. Any such action is within the Olympic Authority's sole discretion and the Candidate shall have no right to appeal or challenge such action by the Olympic Authority.

4. The result of the Olympic Authority's review of any corrected Report will be communicated in writing to the Candidate by the Office of Human Resources.

c. **Adverse Action Notice**

If the Olympic Authority 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 the Olympic Authority's sole discretion and the Candidate shall have no right to appeal or challenge such action by the Olympic Authority.

**5.6 Protection of Personal Information**

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

**5.7 Record-Keeping**

- a. The Report will be maintained by the Office of Human Resources and kept for a period of four (4) years from the date the Report was completed.
- b. At the expiration of the four (4) years, the Report will be deleted from the Office of Human Resources database/information system and all paper copies, if any, will be destroyed.

## **VI. VIOLATIONS**

Violations of this Policy by a 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 on an annual basis and updated as necessary.

**Exhibit A**

Date

Applicant Name  
Address  
City, State Zip Code

Dear [Name]:

A decision is currently pending concerning your application for employment with the Olympic Authority. 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 the Olympic Authority.

Sincerely,

Office of Human Resources

## Exhibit B

*Para información en español, visite [www.consumerfinance.gov/learnmore](http://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](http://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](http://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](http://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](http://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](http://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:**

<b>Type of Business:</b>	<b>Contact:</b>
<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 &amp; 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., 8<sup>th</sup> 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.



NEW YORK STATE

# OLYMPIC REGIONAL DEVELOPMENT AUTHORITY

## CODE OF ETHICS POLICY

Effective \_\_\_\_\_

### **I. Introduction**

It is the policy of the Olympic Regional Development Authority (the "Olympic Authority") to conduct all of its activities pursuant to the highest standards of public integrity and ethical conduct. So as to emphasize the standards of ethical conduct expected of all members and employees of the Olympic Authority, the Board of Directors has adopted in its By-Laws at Article III (Conflicts of Interest), and by Resolution Nos. 11, 79, 179, and 428, a Code of Ethics Policy (the "Code").

This Code establishes the parameters of permissible activity by Olympic Authority members and employees, specifically proscribes certain activities, and establishes the administrative structure through which such matters shall be identified and resolved.

Any questions regarding the application of this Code, or any doubts regarding the propriety of any action planned or taken by the Olympic Authority, its members or employees, shall be brought to the attention of the Olympic Authority's General Counsel. The General Counsel will refer breaches of the Code, or other matters, as appropriate, to the Commission on Ethics and Lobbying in Government ("COELIG") and/or such other authority as may be appropriate under the circumstances. The COELIG website can be accessed at: <https://ethics.ny.gov/>.

### **II. Public Officers Law**

The Ethics in Government Act was enacted in 1987 to eliminate abuse and corruption in State government and to restore the public's trust and confidence in public institutions. Under the Act, restrictions were imposed on the business and professional activities of State officers and employees, both during and after their State employment. The Act also requires certain public employees to file an annual statement of financial disclosure to COELIG.

In accordance with Public Authorities Law § 2608 (5), all members and employees of the Olympic Authority are subject to the ethics provisions set forth in Public Officers Law §§73, 73-a, and 74. The rules of ethical conduct as set forth in this Code are to be considered as supplemental to those contained in §§ 73, 73-a, and 74 of the Public Officers Law, and such law is paramount and controlling to the extent, if any, that it is more restrictive or limiting than the Code.

### **III. Conflicts of Interest**

Members and employees of the Authority shall avoid actual, apparent, or potential conflicts of interest in the exercise of their official duties and responsibilities, as well as their private and individual interests. Such conflicts of interest may include:

A. Soliciting, accepting, or receiving any gift, whether in the form of money, service, loan,

travel, entertainment, hospitality, promise, or in any other form, under circumstances in which it could be reasonably inferred that the gift was intended to influence the member or employee of the Olympic Authority, or could reasonably be expected to influence such member or employee in the performance of their official duties, or as a reward for any official action;

B. Accepting outside employment which would impair the member or employee of the Olympic Authority's independence of judgement in the exercise of their official duties, or which would require or result in the disclosure of confidential information gained by reason of State position, employment, or authority;

C. Soliciting or obtaining significant interest or investment in business enterprises that act as Olympic Authority sponsors or suppliers, other than those interests or investments held prior to service as a member or employee of the Olympic Authority;

D. Taking part, as a member or employee of Olympic Authority, in the identification, negotiation, selection, acquisition or determination of any procurement, contract, transaction, or other matter with any business entity in which such member, employee, or representative has a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of his/her official duties.

This Code mandates complete disclosure, in writing, of any such conflict or potential conflict of interest, or appearance of a conflict of interest. This requirement includes a detailed recitation of the nature and extent of any direct or indirect financial or other interest such member or employee of the Olympic Authority may have in any entity currently doing or attempting to do business with the Olympic Authority, and must be submitted to the General Counsel. Every effort must be made to identify and mitigate the appearance or existence of, or the potential for, a conflict of interest at the earliest stage of any Olympic Authority business transaction.

***NOTE:** A conflict of interest with respect to any entity doing business or attempting to do business with the Olympic Authority shall preclude any member of the Olympic Authority Board of Directors from voting upon such business before the Board, and shall require all affected members and/or employees of the Olympic Authority to refrain from any involvement in the transaction of such business at any level. Inquiries regarding the application of this requirement should be immediately referred to the General Counsel.*

#### **IV. Nepotism**

Public Officers Law § 73 (14) prohibits a State employee from participating in any decision to hire, promote, discipline, or discharge a relative who is, or is under consideration to become, a State employee. The term "relative" is defined under the law as any person living in the same household as the member or employee, or any person who is a direct descendant of the member's or employee's grandparents, as well as the spouse of such descendant.

This law does not prohibit relatives from being employed by the Olympic Authority in the same venue or even the same department. It does, however, prohibit the direct oversight of one relative by another. The Olympic Authority will make every effort to avoid the placement of relatives in the same chain of command. However, in those cases where that is not possible, in accordance with guidance provided by COELIG in 2023, the Olympic Authority will use its

discretion to establish a management and reporting structure that avoids the direct or indirect management of one relative by another. Such management structure must be documented by the appropriate Olympic Authority venue or department management staff, shall be approved by the General Counsel in writing, and such written approval shall be provided to relevant managerial staff and maintained by the Office of Human Resources in the personnel files of both relatives. The Olympic Authority shall retain the right to revise any such management and reporting structure if necessary.

Any relative of an Olympic Authority employee who wishes to seek employment with the Olympic Authority must do so without any involvement by their Olympic Authority-employed relative. Any Olympic Authority employee who has a relative seeking employment with the Olympic Authority is prohibited from participating in any manner in any part of the hiring process.

## V. Gifts

A “gift” under the law is anything of value that is over the nominal amount of \$15.00. The prohibition of accepting gifts includes but is not limited to meals, refreshments, entertainment, money, services, loans, travel, lodging, a promise with monetary value, forgiving a debt or agreeing to change the terms of a debt. The purpose of the prohibition is to avoid conflicts of interest or the appearance of conflicts of interest in connection with the performance of a member or employee’s job duties, or anything that could be interpreted as a reward for official action on the part of a member or employee.

Under the law, gifts from “interested sources” are presumed to be prohibited even if the gift falls under the \$15.00 nominal threshold. An “interested source” is any person or entity who does business with the Olympic Authority, who wants to do business with the Olympic Authority, who is involved in litigation with the Olympic Authority, any person or entity who has received or applied for funds from the Olympic Authority within the preceding year, and any person or entity who is attempting to influence the member or employee or the Olympic Authority in carrying out an official action.

It is important to remember that the \$15.00 nominal threshold can be exceeded if the same source provides multiple otherwise “permissible” gifts that add up to over \$15.00. It is also important to remember that no member or employee may direct a gift from an impermissible source to a third party, including a charitable organization or a family member.

Travel costs (which include lodging and hospitality) that are associated with an employee’s job duties and are offered by a third party, must be reviewed and approved in advance by the General Counsel and may be reportable on an employee’s annual Financial Disclosure form. Honoraria must also be approved in advance by the General Counsel and may also be reportable on an annual Financial Disclosure form filing. Complimentary attendance at certain widely attended events may be permissible, but must be approved in advance by the General Counsel.

***NOTE:** Impermissible gifts are those that are offered in connection with an employee’s job with the Olympic Authority. Exclusions include gifts from family or friends in connection with holidays or other occasions, honors or awards, promotional items, and widely available discounts.*

All employees are encouraged to contact either the General Counsel or COELIG for advice

regarding the offer of a gift in connection with their employment, to be sure they avoid potential problems with the ethics law.

## **VI. Outside Employment or Activities**

No Olympic Authority member or employee shall engage in any outside business activity, transaction, or employment that would conflict with their responsibility to carry out their job duties in the public interest. In addition, no Olympic Authority member or employee shall engage in any outside business activity that would reflect adversely on the integrity of such member or employee, or the Olympic Authority itself.

All employees are encouraged to seek the approval of their supervisor and the Olympic Authority General Counsel prior to engaging in an outside employment or business activities. Those employees who are classified as policymakers are required to have the prior written approval of both their supervisor and the General Counsel, and for any policymaker earning over \$5000 per year from such activity, COELIG must also issue prior approval. Policymakers are required to obtain review and approval of all outside activities on an annual basis, even where such activity has previously been approved.

Actions associated with any outside business activity, transaction, or employment are not permitted during an employee's normal work hours, and no Olympic Authority premises, equipment, supplies, or resources of any kind may be used to accomplish such activity.

## **VII. Political Activities**

Olympic Authority members and employees are encouraged to take an interest in local, State, and national political affairs, and to participate in such affairs, on their own time, using their own resources. However, the Public Officers Law generally prohibits an individual who is serving in a policy making position from serving as an officer of any political party or political organization (note - a "political organization" is defined to mean an organization that is affiliated with or subsidiary to a political party, but does not include campaign or fundraising committees), from serving as a member of any political party committee including serving as a political party district leader or member of a national committee of a political party, and from giving or raising contributions to the Governor's political campaign.

Any participation by an Olympic Authority employee in permitted political activities must comply with the following guidelines:

- A. The employee must be clearly acting as an individual, not as a representative of the Olympic Authority;
- B. The activities must not interfere with the employee's job duties;
- C. The activities cannot be carried out on Olympic Authority time;
- D. The activities must not involve the use of Olympic Authority premises, resources, facilities, equipment, or supplies.

There should be no political signage on any Olympic Authority property, and no Olympic Authority employee should wear political hats or clothing at work. No Olympic Authority employee should wear their Olympic Authority uniform to any political function. The use of social media on an employee's own time using their personal technology is of course permissible, as long as there is no association made between an employee's political views and their employment with the Olympic Authority.

In general, Olympic Authority members and employees are charged to pursue a course of conduct that will maintain the public's trust and confidence in civil servants and public institutions, and that complies with all applicable local, State, and federal laws.

Any member or employee with an interest in outside political activities or questions about these requirements should contact the Olympic Authority General Counsel or COELIG.

#### **VIII. Policy Makers**

The Olympic Authority Board of Directors will, on an annual basis, pass a resolution identifying those employees who are designated as policy makers by the Olympic Authority. The specific rules that apply to Policy Makers in a manner that is different than other Olympic Authority employees are discussed in Sections VI and VII above, and in the following section.

#### **IX. Financial Disclosure**

In accordance with Public Officers Law § 73-a, COELIG requires that any employee designated by the Olympic Authority as a policymaker, or any employee whose salary exceeds the annual threshold, file an Annual Financial Disclosure Statement (FDS). All Board Members are subject to the requirement for filing an annual statement of financial disclosure. Pursuant to the Public Officers Law, the failure to file this Statement in a timely manner may subject a required filer to a civil penalty of up to ten thousand dollars (\$10,000.00), and/or disciplinary action initiated by the Olympic Authority.

The Olympic Authority will track the compliance of members and employees with this requirement, and those members and employees who are subject to this requirement will be notified by COELIG and the Olympic Authority Director of Human Resources of the requirement to file a FDS and the annual deadline for doing so.

Information about the annual filing requirements, including changes in salary thresholds can be found at <https://ethics.ny.gov/fds-filing-information-and-forms>.

Any questions on these requirements should be directed to Olympic Authority General Counsel, or to COELIG at 800-873-8442 or by email at [Guidance@ethics.ny.gov](mailto:Guidance@ethics.ny.gov).



NEW YORK STATE

# OLYMPIC REGIONAL DEVELOPMENT AUTHORITY

## Defense and Indemnification Policy Effective \_\_\_\_\_

### I. Purpose and Definition.

The purpose of this Policy is to provide for the defense and indemnification of Members, officers, and employees of the New York State Olympic Regional Development Authority (ORDA).

### II. General Scope of Indemnification.

ORDA shall, to the fullest extent permitted by law, indemnify any person who becomes a party to an action or proceeding by reason of the fact that they were or are a Board Member (Member), officer, or employee of ORDA, and arising out of such Member's, officer's, or employee's action(s) within the scope of their employment in the exercise or carrying out of any of ORDA's purposes and powers (Applicable Standard of Conduct), against judgments, penalties, amounts paid in settlement and reasonable expenses, including attorney's fees, actually and necessarily incurred, unless the conduct of such Member, officer, or employee, in the matters at issue in such action or proceeding, is found not to have met the Applicable Standard of Conduct.

### III. Insurance.

ORDA shall, to the fullest extent permitted by law, provide defense and/or indemnification under the terms of this Policy through the purchase and maintenance of insurance procured annually as part of the ORDA program of insurance. Outside of such insurance ORDA assumes no independent obligation to indemnify any ORDA Member, officer, or employee, under the terms of this Policy. If a claim for coverage is denied by the carrier(s) of such policy or policies of insurance, ORDA shall have no independent liability for the costs associated with either the defense or indemnification of any Member, officer, or employee, in any action or proceeding against them. This policy does not create any contractual obligation on the part of ORDA in this regard.

### IV. Applicability of this Article.

A. The provisions of this Policy shall inure only to Members, officers, and employees of ORDA, as defined herein, shall not enlarge or diminish the rights of any other party to an action or proceeding, and shall not impair, limit or modify the rights and obligations of any insurer under any policy of insurance.

B. The provisions of this Policy shall be in addition to and shall not supplant any indemnification by the State heretofore or hereafter conferred upon any Member, officer, or employee by Section 17 of the Public Officers Law, or otherwise.

C. This Policy shall be applicable, to the fullest extent permitted by law, to any claim for indemnification made after its adoption as a Policy Resolution of ORDA, whether the action or proceeding to which such claim relates commenced, or the matters at issue therein occurred, before or after the adoption of this Policy. It is contemplated that no subsequent amendment, supplement or repeal of this Policy which deprives a Member, officer, or employee of any substantial right or benefit conferred herein will be made applicable with respect to any claim for indemnification arising out of conduct of such Member, officer, or employee occurring or alleged to have occurred after the adoption of this Policy and prior to such amendment, supplement or repeal.

**STATE OF NEW YORK  
EXECUTIVE DEPARTMENT**



**EQUAL EMPLOYMENT OPPORTUNITY  
In New York State**

**RIGHTS AND RESPONSIBILITIES**

**A Handbook for Employees of New York State Agencies**

**Kathy Hochul  
Governor**

**August 2023**

# EMPLOYEE RIGHTS AND RESPONSIBILITIES

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## EMPLOYEE RIGHTS AND RESPONSIBILITIES

# EMPLOYEE RIGHTS AND RESPONSIBILITIES

## INTRODUCTION

New York State has long been committed to the principle that all individuals in the State should have an equal opportunity to enjoy a full and productive life, including in their occupational pursuits. Under New York State's Human Rights Law, the first of its kind in the nation, employees are protected from acts of discrimination. Such acts have no place in the workplace.

All State employees have the right to be free from unlawful discrimination in the workplace, together with a responsibility to ensure their actions do not contribute to an atmosphere in which the State's policy of promoting a bias-free work environment is frustrated. In this Handbook, the term "employee" includes interns and non-employees, such as contractors and consultants working in the State workplace and their employees. This Handbook is intended to provide employees of the State of New York with information on their rights and responsibilities under State and federal law with respect to equal employment opportunity. Emphasis will be placed on New York State's Human Rights Law because the protections it provides are generally greater than those granted under federal law. In addition, this Handbook will cover related State laws and Executive Orders.

This Handbook comprises the statewide anti-discrimination policy applicable to State workplaces. Conduct that may not amount to a violation of State or federal law or an Executive Order may nonetheless constitute a violation of the State's anti-discrimination policy, as set forth in this Handbook.

Executive Order 187, which became effective on December 1, 2018, transferred the responsibility for conducting investigations of all employment-related discrimination complaints to the Office of Employee Relations ("OER")<sup>1</sup>. Executive Order 187 promotes more effective, complete and timely investigations of complaints of employment-related protected class discrimination in agencies and departments over which the Governor has executive authority. These investigations include complaints filed by employees, contractors, interns and other persons engaged in employment at these agencies and departments concerning discrimination, retaliation and harassment under federal and New York State law, Executive Orders and policies of the State of New York. All such complaints of protected class employment-related discrimination will

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<sup>1</sup> OER, which was established as an office of the executive department by Article 24 of the New York Executive Law, was previously called the Governor's Office of Employee Relations until April 10, 2022. Executive Order 187 ("EO 187") confers the duty to investigate employment discrimination to the "Governor's Office of Employee Relations." References to the Governor's Office of Employee Relations in EO 187 are to the statutory entity, OER.

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

be investigated by OER. A copy of the New York State Employee Discrimination Complaint Form is located on the OER website (<https://oer.ny.gov/>) at <https://antidiscrimination.oer.ny.gov/>.

## PROTECTED AREAS

The Human Rights Law applies to all State agencies and employees and provides very broad anti-discrimination coverage. The Human Rights Law provides, in section 296.1(a), that it is an unlawful discriminatory practice “[f]or an employer or licensing agency, because of the age, race, creed, color, national origin, sexual orientation, , gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status or status as a victim of domestic violence [of any individual], to refuse to hire or employ or to bar or to discharge from employment such individual or to discriminate against such individual in compensation or in terms, conditions or privileges of employment.” Persons with disabilities, and persons with pregnancy-related conditions, are entitled to reasonable accommodation as provided in section 296.3. Accommodation of sabbath observance or other religious practices is required by section 296.10. The Human Rights Law further provides, in sections 296.15 and 296.16, protections from employment discrimination for persons with prior conviction records, or prior arrests, youthful offender adjudications or sealed records.

Each of these protected areas are discussed below, as well as other protections provided by Governor’s Executive Orders and other state laws and policies.

## AGE

No decision affecting hiring, promotion, firing or a term, condition or privilege of employment shall discriminate on the basis of a person’s age, nor shall employees be harassed or otherwise discriminated against on such basis, or perceived basis.

While most cases of age discrimination concern allegations that an employee was perceived to be “too old” by an employer, under the Human Rights Law it is also discriminatory to base an employment decision on a perception that a person is “too young,” as long as the person is at least 18. However, basing a decision on lack of experience or ability is not discriminatory.

Decisions about hiring, job assignments or training must never be based on age-related assumptions about an employee’s abilities or willingness to learn or undertake new tasks and responsibilities.

All employees must refrain from conduct or language that directly or indirectly expresses a preference for employees of a certain age group. Ageist remarks must be avoided in the workplace.

### **Statutory protection.**

Age discrimination is made unlawful by Human Rights Law § 296.1, § 296.3-a, § 296-c (for interns) and § 296-d (for non-employees working in the workplace), and by the

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

federal Age Discrimination in Employment Act (“ADEA”).<sup>2</sup> Under New York law, age discrimination in employment is prohibited against all persons eighteen years of age or older. Under the ADEA, age discrimination is prohibited only against persons forty years of age or older.

### **Executive Order concerning State workers.**

Executive Order No. 2 dated January 1, 2011, reissued Executive Order No. 96,<sup>3</sup> and prohibits Age Discrimination in the workplace. The Executive Order notes that every State employee is entitled to work in an age-neutral environment with equal opportunity for hiring, promotion and retraining opportunities.

### **Retirement.**

Mandatory retirement of employees at any specific age is generally prohibited, except as noted below.<sup>4</sup> However, retirement plans may contain an age component for eligibility. Thus, retirement plans may require that persons attain a certain age or have some combination of age and years of service, before being eligible for retirement benefits.<sup>5</sup>

Incentive programs intended to induce employees to retire by granting them greater retirement benefits than those to which they would normally be entitled in order to reduce the size of the work force have generally been found to be lawful. Being eligible for “early retirement” is not coercion based on age. Similarly, that an employee may not be eligible for a retirement benefit or incentive because he or she has not attained a certain age (i.e., “too young”) is also not considered discriminatory.

### **Exceptions.**

The Civil Service Law<sup>6</sup> mandates minimum and maximum hiring ages for police officers. Correction Officers must be at least 21 years of age in order to be appointed.<sup>7</sup> These are lawful exceptions to the provisions of the Human Rights Law.

There are certain limited exceptions to the prohibition on mandatory retirement.<sup>8</sup> For example, officers of the New York State Police are required to retire at age 60,<sup>9</sup> and State park police officers are required to retire at age 62.<sup>10</sup>

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<sup>2</sup> 29 U.S.C. § 621 et seq.

<sup>3</sup> Issued by Gov. Mario M. Cuomo on April 27, 1987.

<sup>4</sup> Human Rights Law § 296.3-a(d) but see exceptions below.

<sup>5</sup> Human Rights Law § 296.3-a(g).

<sup>6</sup> N.Y. Civil Service Law § 58; see also N.Y. Executive Law § 215.3.

<sup>7</sup> N.Y. Correction Law § 7(4).

<sup>8</sup> Human Rights Law § 296.3-a(g).

<sup>9</sup> N.Y. Retirement and Social Security Law § 381-b(e).

<sup>10</sup> N.Y. Park, Recreation and Historic Preservation Law § 13.17(4).

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

In the area of employee benefits, the Human Rights Law does not “preclude the varying of insurance coverage according to an employee's age.”<sup>11</sup>

### **RACE AND COLOR**

No decision affecting hiring, promotion, firing or a term, condition or privilege of employment shall discriminate on the basis of a person's race or color, nor shall employees be harassed or otherwise discriminated against on such basis, or perceived basis.

Discrimination because of a person's membership in or association with an identifiable class of people based on ancestry or ethnic characteristics can be considered racial discrimination.

There is no objective standard for determining an individual's racial identity. Therefore, as an employer, the State defers to an employee's self-identification as a member of a particular race.

The Human Rights Law explicitly provides that the definition of race includes traits historically associated with race, including, but not limited to, hair texture and protective hairstyles.<sup>12</sup> Protective hairstyles include such hairstyles as braids, locks and twists.

“Color” can be an independent protected class, based on the color of an individual's skin, irrespective of their race.

#### **Statutory protection.**

Race and color discrimination are unlawful pursuant to the Human Rights Law § 296.1, § 296-c (for interns) and § 296-d (for non-employees working in the workplace), and the federal Civil Rights Act of 1964, Title VII.<sup>13</sup>

### **CREED**

No decision affecting hiring, promotion, firing or a term, condition or privilege of employment shall discriminate on the basis of a person's creed, nor shall employees be harassed or otherwise discriminated against on such basis, or perceived basis.

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<sup>11</sup> Human Rights Law § 296.3-a(g).

<sup>12</sup> Human Rights Law § 292.37 and § 292.38.

<sup>13</sup> 42 U.S.C. § 2000e et seq.

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

“Creed” encompasses belief in a supreme being or membership in an organized religion or congregation. Atheism and agnosticism are considered creeds as well. A person is also protected from discrimination because of having no religion or creed. An individual’s self-identification with a particular creed or religious tradition is determinative.

### **Statutory protection.**

Discrimination based on creed is unlawful pursuant to the Human Rights Law § 296.1, § 296-c (for interns) and § 296-d (for non-employees working in the workplace), and the federal Civil Rights Act of 1964, Title VII.<sup>14</sup>

### **Sabbath or holy day observance.**

An employee is entitled to time off for religious observance of a sabbath or holy day or days, in accordance with the requirements of their religion, provided it does not impose an undue hardship to their employer, as explained below.<sup>15</sup> Time off shall also be granted to provide a reasonable amount of time for travel before and after the observance.

The Human Rights Law provides that any such absence from work shall, wherever practicable in the reasonable judgment of the employer, be made up by an equivalent amount of time and work at a mutually convenient time, or shall be charged against any available personal, vacation or other paid leave, or shall be taken as leave without pay.<sup>16</sup> Agencies are not required to permit such absence to be made up at another time, but may agree that the employee may do so.

Leave that would ordinarily be granted for other non-medical personal reasons shall not be denied because the leave will be used for religious observance.<sup>17</sup> Under no circumstances may time off for religious observance be charged as sick leave.<sup>18</sup>

The employee is not entitled to premium wages or benefits for work performed during hours to which such premium wages or benefits would ordinarily be applicable, if the employee is working during such hours only to make up time taken for religious observance.<sup>19</sup>

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<sup>14</sup> 42 U.S.C. § 2000e et seq.

<sup>15</sup> Human Rights Law § 296.10(a).

<sup>16</sup> Human Rights Law § 296.10(b).

<sup>17</sup> Human Rights Law § 296.10(c).

<sup>18</sup> Human Rights Law § 296.10(b).

<sup>19</sup> Human Rights Law § 296.10(a). “Premium wages” include “overtime pay and compensatory time off, and additional remuneration for night, weekend or holiday work, or for standby or irregular duty.” § 296.10(d)(2). “Premium benefit” means “an employment benefit, such as seniority, group life insurance, health insurance, disability insurance, sick leave, annual leave, or an educational or pension benefit that is greater than the employment benefit due to the

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

Civil Service Law § 50(9) provides that candidates who are unable to attend a civil service examination because of religious observance can request an alternate test date from the Department of Civil Service without additional fee or penalty.

### **Religious observance or practices.**

An employee who, in accordance with their religious beliefs, observes a particular manner of dress, hairstyle, beard, or other religious practice, should not be unreasonably required to compromise their practice in the workplace. The employer is required by law to make a bona fide effort to accommodate an employee's or prospective employee's religious observance or practice. Employers are required to reasonably accommodate the wearing of attire, clothing, or facial hair in accordance with the requirements of an employee's religion, provided it does not impose an undue hardship on the employer.<sup>20</sup>

### **Request for accommodation.**

All New York State agencies have adopted a procedure for requesting a religious accommodation.<sup>21</sup> An applicant or employee requesting time off or other accommodation of religious observance or practice should clearly state the religious nature of the request and should be willing to work with the employer to reach a reasonable accommodation of the need. Supervisors should consult with their human resources and/or legal departments, as necessary, with respect to requests for accommodation of religious observance or practices.

### **Conflicts with seniority rights.**

In making the effort to accommodate sabbath observance or religious practices, the employer is not obliged to initiate adversarial proceedings against a union when the seniority provisions of a collective bargaining agreement limit its ability to accommodate any employee's religious observance or practice, but may satisfy its duty under this section by seeking volunteers willing to waive their seniority rights in order to accommodate their colleague's religious observance or practice. This waiver must be sought from the union that represents the employees covered by such agreement.

### **Undue hardship.**

Before the employer can deny a religious accommodation, the employer must be able to show that accommodating the employee's religious observance or practice would result

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employee for an equivalent period of work performed during the regular work schedule of the employee." § 296.10(d)(3).

<sup>20</sup> Human Rights Law § 296.10(a).

<sup>21</sup> With respect to policy and procedures relative to religious accommodation generally, employees should consult the publication "[Procedures for Implementing Reasonable Accommodation of Religious Observance or Practices for Applicants and Employees](#)," and the accompanying "Application to Request Reasonable Accommodation of Religious Observance or Practice."

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

in undue hardship to the employer. The undue hardship standard applies generally to all accommodation requests, not only those for time off for religious observance. “Undue hardship” means an accommodation requiring significant expense or difficulty, including one that would cause significant interference with the safe or efficient operation of the workplace. Factors that are specifically to be considered are the identifiable costs (such as loss of productivity, or the cost to transfer or hire additional personnel), and the number of individuals who will need time off for a particular sabbath or holy day in relation to available personnel.<sup>22</sup>

Furthermore, in positions that require coverage around the clock or during particular hours, being available even on sabbath or holy days **may** be an essential function of the job. Also, certain uniform appearance standards **may** be essential to some jobs. A requested accommodation will be considered an undue hardship, and therefore not reasonable, if it will result in the inability of an employee to perform an essential function of the job.<sup>23</sup>

### **Exceptions.**

None with regard to employment decisions. Accommodation is limited by reasonableness, conflicting seniority rights and undue hardship, as set forth above.

## **NATIONAL ORIGIN**

No decision affecting hiring, promotion, firing or a term, condition or privilege of employment shall discriminate on the basis of a person’s national origin, nor shall employees be harassed or otherwise discriminated against on such basis, or perceived basis.

National origin is defined as including ancestry, so an individual born in the United States is nonetheless protected against discrimination based on their ancestors’ nationality.<sup>24</sup> An individual’s self-identification with a particular national or ethnic group is determinative.

### **Statutory protection.**

National origin discrimination is unlawful pursuant to the Human Rights Law § 296.1, § 296-c (for interns) and § 296-d (for non-employees working in the workplace), and the federal Civil Rights Act of 1964, Title VII.<sup>25</sup>

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<sup>22</sup> Human Rights Law § 296.10(d)(1).

<sup>23</sup> Human Rights Law § 296.10(d)(1).

<sup>24</sup> Human Rights Law § 292.8.

<sup>25</sup> 42 U.S.C. § 2000e et seq.

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

### **Language issues.**

Fluency in English may be a job requirement. However, requiring that a person speaks English as their primary language, or be a “native speaker,” may be considered national origin discrimination. In some circumstances, where a particular level of fluency in English is not necessary for job performance, requiring such fluency might also constitute national origin discrimination. The only lawful requirement is for a level of English fluency necessary for the job.

Requiring employees to speak only English at all times in the workplace may be national origin discrimination. Any specific workplace rule about language use must be reasonable and necessary to the efficient conduct of State business. Any such reasonable rule that prohibits or limits the use of a language other than English in the workplace must be clearly communicated to employees before it can be enforced.<sup>26</sup>

Requiring fluency in a language other than English, such as for employment in bilingual positions, is not discriminatory. However, a job qualification of language fluency must be based on an individual’s ability, not on national origin. A requirement that an individual be a “native speaker” of a language other than English is discriminatory.

### **Proof of identity and employment eligibility.**

All New York State employees hired after November 6, 1986 must be able to complete a verified federal Form I-9, which establishes the employee’s identity and eligibility for employment in the United States. Rescinding an offer of employment or terminating employment based upon lack of current employment authorization is required by federal law and is not unlawful discrimination.<sup>27</sup>

### **Citizenship requirements.**

Employees serving in positions designated as “public offices,” as well as peace and police officer positions defined in the New York State Criminal Procedure Law, must be United States citizens.<sup>28</sup>

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<sup>26</sup> See the federal Equal Employment Opportunity Commission’s regulation at 29 CFR § 1606.7.

<sup>27</sup> US Immigration and Nationality Act § 274A, as modified by the Immigration Reform and Control Act of 1986, Immigration Act of 1990 and Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

<sup>28</sup> Public Officers Law § 3(1); Criminal Procedure Law § 1.20(34) (police officers); Criminal Procedure Law § 2.10 (peace officers).

## **CITIZENSHIP OR IMMIGRATION STATUS**

No decision affecting hiring, promotion, firing or a term, condition or privilege of employment shall discriminate on the basis of a person's citizenship or immigration status, nor shall employees be harassed or otherwise discriminated against on such basis, or perceived basis.

"Citizenship or immigration status" means the citizenship or immigration status of any person who is not a citizen of the United States.

An employer's verification of citizenship or immigration status, when required by law, does not constitute discrimination on the basis of citizenship or immigration status. The law does not prevent an employer from taking an adverse action based on that verification where such action is required by law.

### **Statutory protection.**

Discrimination on the basis of citizenship or immigration status is unlawful pursuant to the Human Rights Law § 296.1, § 296-c (for interns) and § 296-d (for non-employees working in the workplace).

## **MILITARY STATUS**

No decision affecting hiring, promotion, firing or a term, condition or privilege of employment shall discriminate on the basis of a person's military status, nor shall employees be harassed or otherwise discriminated against on such basis, or perceived basis.

"Military status" is defined in the Human Rights Law as a person's participation in the military service of the United States or the military service of the State, including, but not limited to, the armed forces of the United States, the Army National Guard, the Air National Guard, the New York Naval Militia, or the New York Guard.<sup>29</sup>

### **Statutory protection.**

Discrimination on the basis of military status is unlawful pursuant to the Human Rights Law § 296.1, § 296-c (for interns) and § 296-d (for non-employees working in the workplace). The federal Uniformed Services Employment and Reemployment Rights Act (USERRA)<sup>30</sup> provides additional protections.

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<sup>29</sup> Human Rights Law § 292.28.

<sup>30</sup> 38 U.S.C. §§ 4301-35.

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

Military leave provisions for State workers (and all public employees) are contained in N.Y. Military Law § 242 and § 243. Under the 2008 amendments to the federal Family and Medical Leave Act (FMLA), employees with a family member who is on active duty or on call to active duty status may be eligible for qualifying exigency leave or military caregiver leave of up to 26 weeks in a 12-month period, based upon the family member's military service.

### **Military leave and job retention rights.**

N.Y. Military Law entitles State employees to a leave of absence for "ordered military duty"<sup>31</sup> or "military duty."<sup>32</sup> Both provisions entitle State employees to return to their jobs with the same pay, benefits, and status they would have attained had they remained in their position continuously during the period of military duty. State employees on leave for military duty continue to accrue years of service, increment, and any other rights or privileges. Under both Military Law and the Human Rights Law, those called to military duty, or who may be so called, may not be prejudiced in any way with reference to promotion, transfer, or other term, condition or privilege of employment. Military Law § 243(5) provides: "State employees on leave for military duty shall suffer no loss of time, service, increment, or any other right or privilege, or be prejudiced in any way with reference to promotion, transfer, reinstatement or continuance in office. Employees are entitled to contribute to the retirement system in order to have leave time count toward determining length of service."

Similarly, under USERRA, service members who leave their civilian jobs for military service are entitled to return to their jobs with the same pay, benefits, and status they would have attained had they not been away on duty. USERRA also prohibits employers from discriminating against these individuals in employment because of their military service, or for exercising their rights under USERRA.

## **SEX**

No decision affecting hiring, promotion, firing or a term, condition or privilege of employment shall discriminate on the basis of a person's sex, nor shall employees be harassed or otherwise discriminated against on such basis, or perceived basis.

Sex/gender discrimination also includes discrimination on the basis of gender identity, pregnancy, childbirth or prenatal leave, sexual orientation and sexual harassment. Each of these is discussed in more depth below.

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<sup>31</sup> N.Y. Military Law § 242; pertains to members of the militia, the reserve forces, or reserve components of any branch of the military.

<sup>32</sup> N.Y. Military Law § 243; pertains to active duty in the armed forces or reservists called to active duty.

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### **Statutory protection.**

Sex discrimination is unlawful pursuant to the Human Rights Law § 296.1, § 296-c (for interns) and § 296-d (for non-employees working in the workplace), and the federal Civil Rights Act of 1964, Title VII.<sup>33</sup>

### **Sex stereotyping.**

Stereotyping based upon sex or gender occurs when conduct, personality traits, or other attributes are considered inappropriate simply because they may not conform to general societal norms or other perceptions about how individuals of either sex should act or look. Making employment decisions based on sex-stereotyped evaluations of conduct, looks or dress can be considered discrimination on the basis of sex or gender.

Discrimination because a person does not conform to gender stereotypes is discrimination based upon sex or gender and may constitute sexual harassment. Derogatory comments directed at a person who has undergone gender dysphoria-related medical treatment could constitute sexual harassment, just as comments about secondary sex characteristics of any person could be sexual harassment.

Sex discrimination can also arise in the context of gender transition issues such as an employer's refusal to recognize an employee's sex after transition. For more information on transgender issues, see below: [Gender Identity](#) and [Disability](#).

### **Sexual harassment.**

Sexual harassment constitutes sex discrimination. (See below: [Sexual Harassment](#)).

### **Pregnancy and childbirth discrimination.**

Discrimination on the basis of pregnancy or childbirth constitutes sex discrimination. (See below: [Pregnancy, Childbirth and Parental Leave](#)).

### **Exceptions.**

Both State and federal law permit consideration of sex in employment decisions when it is a bona fide occupational qualification (BFOQ). This is, however, an **extremely narrow** exception to the anti-discrimination provisions of the Human Rights Law. Neither customer preference nor stereotyped and generalized views of ability based on sex can form the basis for a BFOQ. However, proof that employing members of a particular sex would impinge on the legitimate personal privacy expectations of an agency's clients, particularly in a custodial environment, may make out a case for a BFOQ.

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<sup>33</sup> 42 U.S.C. § 2000e et seq.

## **SEXUAL HARASSMENT**

Sexual harassment is a form of sex discrimination and is unlawful. Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender.

### **Statutory protection.**

Sexual harassment is prohibited as a form of sex discrimination under the Human Rights Law § 296.1, § 296-c (for interns) and § 296-d (for non-employees working in the workplace), and the federal Civil Rights Act of 1964, Title VII.<sup>34</sup>

### **Executive Order concerning State workers.**

Executive Order No. 2 dated January 1, 2011, reissued Executive Order No. 19,<sup>35</sup> which established State policy on sexual harassment in the workplace.

### **Sexual harassment defined.**

Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual's sex when:

- 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;
- Such conduct is made either explicitly or implicitly a term or condition of employment; or
- Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment.

Actions that may constitute sexual harassment based upon a hostile work environment may include, but are not limited to, words, signs, jokes, pranks, intimidation or physical violence which are of a sexual nature, or which are directed at an individual because of that individual's sex. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements or sexually discriminatory remarks made by someone which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, or which interfere with the recipient's job performance.

Sexual harassment is unlawful when it subjects an individual to inferior terms, conditions, or privileges of employment. Sexual harassment need not be severe or

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<sup>34</sup> 42 U.S.C. § 2000e et seq.

<sup>35</sup> Issued by Gov. Mario M. Cuomo on May 31, 1983.

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pervasive to be unlawful, and can be any sexually harassing conduct that consists of more than petty slights or trivial inconveniences.

It is not a requirement that an individual tell the person who is sexually harassing them that the conduct is unwelcome. In fact, the Human Rights Law now provides that even if a recipient of sexual harassment did not make a complaint about the harassment to the employer, the failure of the employee to complain shall not be determinative of whether the employer is liable.<sup>36</sup>

Sexual harassment can also occur when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions or privileges of employment. This is called “quid pro quo” harassment. Only supervisors are deemed to engage in this kind of harassment, because co-workers do not have the authority to grant or withhold benefits.

Every employer in New York State must have a policy on sexual harassment prevention, which includes a procedure for the receipt and investigation of complaints of sexual harassment. This policy and procedure should be distributed to new employees and made available to all staff as needed. Also, each agency must provide appropriate sexual harassment training to its staff.

### **Reporting sexual harassment.**

As with all forms of discrimination and harassment, if an employee, including an intern or contractor working in a State workplace, experiences sexual harassment, or observes it in the workplace, the employee should complain promptly to OER via the New York State Employee Discrimination Complaint form located at <https://oer.ny.gov/>, or by contacting an equal employment officer. If the employing agency is not subject to Executive Order 187, the employee should file a complaint in accordance with their employer’s discrimination complaint procedure. The employee may also report such conduct to a supervisor, managerial employee, or personnel administrator. The complaint can be verbal or in writing. If the complaint is verbal, a written complaint will be requested from the employee in order to assist in the investigation. If the employee refuses to reduce the complaint to writing, the supervisor or other individual who received an oral complaint should file it in writing on the NYS Employee Discrimination Complaint Form. Any complaint, whether verbal or written, must be investigated by OER, or pursuant to the employing agency’s policy. Furthermore, any supervisory or managerial employee who observes or otherwise becomes aware of conduct of a sexually harassing nature must report such conduct so that it can be investigated.

If an employee is harassed by a co-worker or a supervisor, it is very important that a complaint be made to a higher authority promptly. An agency cannot stop sexual harassment unless it has knowledge of the harassment. Once informed, the conduct

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<sup>36</sup> Human Rights Law § 296.1(h).

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must be reported to OER or the employing agency, which is required to initiate an investigation and recommend prompt and effective remedial action where appropriate.

See below: [Harassment](#).

### **Sexual harassment by a non-employee.**

The employing agency has the duty to prevent harassment of its employees in the workplace including harassment by individuals who its employees come in contact with, including, but not limited to, vendors, consultants, clients, customers, visitors or interns.

### **Sexual harassment of non-employees.**

Individuals in the workplace, who are performing work under contract, are explicitly protected from sexual harassment (and all other types of workplace discrimination) by Human Rights Law § 296-d.

In accord with statewide policy, employees and interns are subject to discipline for harassment of *anyone* in the workplace, including contractors, clients, vendors, or any members of the public.

## **SEXUAL ORIENTATION**

No decision affecting hiring, promotion, firing or a term, condition or privilege of employment shall discriminate on the basis of a person's sexual orientation, nor shall employees be harassed or otherwise discriminated against on such basis, or perceived basis.

The term "sexual orientation" means heterosexuality, homosexuality, bisexuality or asexuality, whether actual or perceived.<sup>37</sup>

### **Statutory protection.**

Discrimination on the basis of sexual orientation is unlawful pursuant to the Human Rights Law § 296.1, § 296-c (for interns) and § 296-d (for non-employees working in the workplace). Sexual orientation is not a separate protected class under federal law. However, sexual orientation discrimination may also be considered sex discrimination under federal law.

### **Same-sex spouses or partners.**

The New York State Marriage Equality Act became effective on July 24, 2011, and authorizes marriages between same-sex couples in the State of New York. New York

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<sup>37</sup> Human Rights Law § 292.27.

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State also recognizes marriages between same-sex couples performed in any jurisdiction where such marriages are valid. Spousal benefits will be provided to same-sex spouses in the same manner as to opposite-sex spouses of State employees. Failure to offer equal benefits, or to discriminate against an employee in a marriage with a same-sex spouse, is considered discrimination on the basis of sexual orientation.

### **Domestic partners.**

Same-sex partners who are not married may also qualify for benefits. The employee and their partner can fill out the “Application for Domestic Partner Benefits” and “Affidavit of Domestic Partnership and Financial Interdependence,” which is available online from the Department of Civil Service. Opposite-sex domestic partners can also qualify for benefits on the same basis as same-sex partners.

## **GENDER IDENTITY OR EXPRESSION**

No decision affecting hiring, promotion, firing or a term, condition or privilege of employment shall discriminate on the basis of a person’s gender identity or expression, nor shall employees be harassed or otherwise discriminated against on such basis, or perceived basis.

“Gender identity or expression” means an individual’s actual or perceived gender-related identity, appearance, behavior, expressions other gender-related characteristic regardless of the sex assigned to that person at birth, including, but not limited to, the status of being transgender.

A transgender person is an individual who has a gender identity different from the sex assigned to that individual at birth.

Gender dysphoria is a recognized medical condition related to an individual having a gender identity different from the sex assigned at birth.

### **Statutory protection.**

Effective February 24, 2019, the Human Rights Law § 296.1 was amended to explicitly state that discrimination on the basis of gender identity or expression is unlawful. Gender identity or expression may also form the basis of Human Rights Law sex and disability discrimination claims. These protections are explained in regulations promulgated by the Division of Human Rights.<sup>38</sup> Gender identity or expression discrimination may also be considered sex discrimination under federal law. Individuals who are not employees, but work in the State workplace (e.g. interns and contractors)

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<sup>38</sup> 9 N.Y.C.R.R. § 466.13

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are protected from discrimination on the basis of gender identity or expression by § 296-d.

### **Executive Order concerning State workers.**

Executive Order No. 2, dated January 1, 2011, reissued Executive Order No. 33,<sup>39</sup> which prohibits discrimination in employment by executive branch agencies on the basis of gender identity.

### **What protection against discrimination is provided by the Human Rights Law?**

As of February 24, 2019, it is unlawful for an employer to discriminate on the basis of “gender identity or expression.”

The term “sex” when used in the Human Rights Law includes gender identity or expression and the status of being transgender, and discrimination on either basis is sex discrimination. Harassment on either basis qualifies as sexual harassment. (See above: [Sex Stereotyping](#).)

The term “disability” when used in the Human Rights Law includes gender dysphoria or other condition meeting the definition of disability in the Human Rights Law and discrimination on that basis is disability discrimination. Refusal to provide reasonable accommodation for persons with gender dysphoria, where requested and necessary, is also disability discrimination. (See above: [Disability](#).)

While discrimination on the basis of gender identity or expression can take many forms, it includes, but is not limited to, unwelcome verbal or physical conduct, such as derogatory comments, jokes, graffiti, drawings or photographs, touching, gestures, or creating or failing to remedy a hostile work environment. Retaliation is also prohibited. (See below: [Harassment](#) and [Retaliation](#).)

### **Rights with regard to name, title and pronoun.**

An employee is entitled to be addressed by the name, title and pronoun that the employee prefers. Managers, supervisors and other employees should comply with such requests, regardless of the employee’s appearance, anatomy, medical history, sex assigned at birth, or legal name, and without requiring identification or other forms of “proof” of gender identity. It is lawful to use an employee’s legal name in employment related documents, such as for payroll and tax records, and insurance and retirement benefits. Once the employee obtains a court order legally changing their name and gender marker, they are entitled to have all records changed to the employee’s legal name upon presentation of the court order to the Director of Human Resources or their designee.

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<sup>39</sup> Issued by Gov. David A Paterson on December 16, 2009.

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

Failure to use the name, title or pronoun preferred by the employee may constitute discrimination on the basis of gender identity or expression.

### **Access to gender-segregated facilities and programs.**

An employee is entitled to use gender-segregated facilities (e.g. changing rooms, locker rooms, showers, restrooms), and participate in gender-separated programs, consistent with that employee's gender identity, regardless of appearance, anatomy, medical history, sex assigned at birth, or gender indicated on identification, and without requiring any "proof" of gender identity. An employee is entitled to be free from any discrimination or harassment because of the employee's use of a particular gender-separated facility. State agencies are not required to change existing facilities to all-gender facilities, or to construct new facilities.

Where single-occupancy facilities exist, any individual may use such facilities, regardless of the gender-designation of such facility. However, an employee may not be required to use a single-occupancy facility because of the employee's gender identity or expression, including, but not limited to, transgender, gender non-conforming, non-binary, or because of another individual's concerns.

### **Dress codes, uniforms, grooming, and appearance standards.**

State agencies may not require dress, uniforms, grooming, or appearance that differ based on gender, sex, or sex stereotypes. Any dress code must be applied consistently, regardless of gender or gender identity.

### **Equal access to employee benefits, leave, and reasonable accommodations.**

An employee is entitled to equal access to benefits, leave, and reasonable accommodations regardless of gender identity. The State offers its employees access to health benefit plans that cover gender dysphoria-related medical treatment, and agencies provide reasonable accommodations to people undergoing gender transition. Requests for leave or reasonable accommodations related to gender should be treated in the same manner as all requests for other health or medical conditions.

## **DISABILITY**

No decision affecting hiring, promotion, firing or a term, condition or privilege of employment shall discriminate on the basis of a person's disability, nor shall employees be harassed or otherwise discriminated against on such basis, or perceived basis.

All employees must be able to perform the essential functions of their jobs in a reasonable manner, with or without a reasonable accommodation. Consideration of

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requests for accommodation of applicants or employees with disabilities is required and should be granted where reasonable.

### **Statutory protection.**

Disability discrimination is unlawful pursuant to Human Rights Law § 296.1, § 296-c (for interns) and § 296-d (for non-employees working in the workplace). Reasonable accommodation is required of employers pursuant to Human Rights Law § 296.3(a). New York State law has a very broad definition of disability, and generally protects persons with any disabling condition, including temporary disabilities. Disability discrimination is also unlawful under federal law. However, the scope of disability under the provisions of the Americans with Disability Act (ADA) is not as broad.<sup>40</sup> The Federal Rehabilitation Act of 1973 § 503 and § 504<sup>41</sup> also apply to many State workers. Federal law also requires reasonable accommodation.

Guide dog, hearing dog, and service dog provisions are found in Human Rights Law § 296.14. An employee who uses a guide, hearing or service dog is also protected by Civil Rights Law § 47-a and § 47-b.

### **What is a “disability” under the Human Rights Law?**

A “disability” is:

- a physical, mental or medical impairment resulting from anatomical, physiological, genetic or neurological conditions which prevents the exercise of a normal bodily function or is demonstrable by medically accepted clinical or laboratory diagnostic techniques; or
- a record of such an impairment; or
- a condition regarded by others as such an impairment.<sup>42</sup>

Because this definition includes any impairment that is demonstrable by clinical or laboratory diagnostic techniques, it includes most disabling conditions.

### **Reasonable performance.**

An employee with a disability must be able to achieve “reasonable performance” in order to be protected by the Human Rights Law. Reasonable performance is not perfect performance or performance unaffected by the disability, but job performance reasonably meeting the employing agency’s needs to achieve its governmental functions. An employee with a disability is entitled to reasonable accommodation if it will permit the employee to achieve reasonable job performance.

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<sup>40</sup> 42 U.S.C. § 12111 et seq.

<sup>41</sup> 29 U.S.C. § 793 and § 794.

<sup>42</sup> Human Rights Law § 292.21.

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### **Essential functions.**

A function is essential if not performing it would fundamentally change the job for which the position exists. If a function is not essential to the job, then it can be reassigned to another employee, and the employee with a disability may not be required to perform that function.

Employers may ask applicants with disabilities about their ability to perform specific job functions and tasks, as long as all applicants are asked in the same way about their abilities. Employers may require applicants/employees to demonstrate capacity to perform the physical demands of a particular job, in the same way as applicants are asked to demonstrate competence and qualifications in other areas. Such tests of capacity, agility, endurance, etc. are non-discriminatory as long as they can be demonstrated to be related to the specific duties of the position applied for and are uniformly given to all applicants for a particular job category.

### **Reasonable accommodation.<sup>43</sup>**

A reasonable accommodation is an adjustment or modification made to a job or work environment that enables a person with a disability to perform the essential functions of a job in a reasonable manner. Some examples of reasonable accommodation include:

- A modified work schedule;
- Reassignment of the non-essential functions of the job;
- Acquisition or modification of equipment; and
- Provision of an accessible worksite.

All otherwise qualified applicants and employees are entitled to reasonable accommodation of disability. Accommodation is required if it is reasonable and will assist in overcoming an obstacle caused by the disability that prevents the person from applying for the position, from performing the essential functions of the position, or from receiving equal terms, conditions or privileges of the position.

Unless the disability is obvious (e.g. employee's use of a wheelchair) the applicant or employee must inform the employing agency of the need for accommodation. The employee also must provide reasonable medical documentation as requested by the agency and engage in an interactive process with the agency in order to reach an effective and reasonable accommodation.

Once an accommodation has been requested, the agency has an obligation to verify the need for the accommodation. If the need for accommodation exists, then the employing

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<sup>43</sup> With respect to policy and procedures relative to reasonable accommodation generally, employees should consult the publication [Procedures for Implementing Reasonable Accommodation for Applicants and Employees with Disabilities and Pregnancy-related Conditions in New York State Agencies](#).

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agency has an obligation to seek an effective solution through an interactive process between the agency and the employee.

While the employee can request a particular accommodation, the obligation to provide a reasonable accommodation is satisfied where the accommodation is effective in addressing the individual's limitations such that they can perform their essential job duties in a reasonable manner. The agency has the right to decide which reasonable accommodation will be granted, so long as it is effective in enabling the employee to perform the job duties in a reasonable manner.

An agency may require a doctor's note to substantiate the request, or a medical examination where appropriate, but must maintain the confidentiality of an employee's medical information. The Human Rights Law requires that the employee cooperate in providing medical or other information needed to verify the disability, or any additional information that is otherwise necessary for consideration of the accommodation.<sup>44</sup>

Information provided for purposes of reasonable accommodation cannot be used by the agency for another purpose, such as a basis for referring an employee for a medical examination to determine fitness for duty pursuant to Civil Service Law section 72(1), placing the employee on an involuntary leave of absence pursuant to Civil Service Law section 72(5), or other personnel actions.

Many common questions about reasonable accommodation are explained in the reasonable accommodation regulations<sup>45</sup> of the New York State Division of Human Rights, which are available on the Division's website. These regulations may be used by applicants, employees, and agency personnel in order to better understand the reasonable accommodation process.

### **Exceptions.**

The Human Rights Law does not require accommodation of behaviors that do not meet the employer's workplace behavior standards that are consistently applied to all similarly situated employees, even if these behaviors are caused by a disability.<sup>46</sup>

Reasonable accommodation is not required where the disability or the accommodation itself poses a direct threat, which means a significant risk of substantial harm to the health or safety of the employee or others that cannot be eliminated or reduced by reasonable accommodation.<sup>47</sup>

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<sup>44</sup> Human Rights Law § 296.3.

<sup>45</sup> 9 N.Y.C.R.R. § 466.11.

<sup>46</sup> 9 N.Y.C.R.R. § 466.11(g)(1).

<sup>47</sup> 9 N.Y.C.R.R. § 466.11(g)(2).

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### **Family Medical Leave Act (29 USC sections 2601 to 2654).**

The State as an employer cannot take adverse action against employees who exercise their rights to medical leave for the birth, adoption, or foster care placement of a child, for their own serious health condition, or to care for a family member with a serious health condition which qualifies under the Act. The Act entitles eligible employees to take up to a total of 12 weeks of unpaid leave during a 12-month period. (Military caregivers may be entitled to up to 26 weeks of leave. See above: [Military Status](#).)

### **Civil Service Law §§ 71 and 73.**

The Civil Service Law allows an agency to terminate an employee after one cumulative year of absence for a disability resulting from an occupational injury or disease as defined in the Workers' Compensation Law.<sup>48</sup> This is extended to two years for an individual injured in an assault that causes such injury or disease. The Civil Service Law also allows an agency to terminate an employee who has been continuously absent for one year for a personal injury or illness.<sup>49</sup>

### **Drug and Alcohol-Free Workplace Policy.**

New York State employees are subject to criminal, civil, and disciplinary penalties if they distribute, sell, attempt to sell, possess, or purchase controlled substances while at the workplace or while acting in a work-related capacity. Such illegal acts, even if engaged in while off duty, may result in disciplinary action. In those locations where it is permitted, an employee may possess and use a controlled substance that is properly prescribed for the employee by a physician. Employees are also prohibited from on-the-job use of, or impairment from, alcohol. If a supervisor has a reasonable suspicion that an employee is unable to perform job duties due to the use of controlled substances or alcohol, that employee may be required to undergo medical testing.<sup>50</sup> If the employee has a disability that is drug- or alcohol-related, the employee may be referred to voluntary and confidential participation in the statewide Employee Assistance Program. Other available options include pursuing disability leave procedures or disciplinary measures. On-line supervisory training regarding a drug- and alcohol-free workplace is available through the OER's Online Learning Center at <https://nyslearn.ny.gov/>.

The Federal Drug-Free Workplace Act of 1988, amended in 1994, requires that all agencies that have contracts with the United States Government that exceed \$100,000, and all agencies that receive federal grants, maintain a drug-free workplace. If an employee is involved in work on a contract or grant covered by this law, they are required to notify their employer of any criminal drug statute conviction, for a violation occurring in the workplace, not less than five days after the conviction. Agencies

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<sup>48</sup> Civil Service Law § 71.

<sup>49</sup> Civil Service Law § 73.

<sup>50</sup> For agencies that do not have their own drug/alcohol testing procedures, this test must be done pursuant to Civil Service Law § 72.

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covered by this law must notify the federal government of the conviction and must take personnel action against an employee convicted of a drug abuse violation.

### **Drug addiction and alcoholism under the Human Rights Law and Regulations.**<sup>51</sup>

An individual who is currently using drugs illegally is not protected under the disability provisions of the Human Rights Law. The law protects individuals who are recovered or recovering drug addicts or alcoholics and may protect alcoholics if the alcoholism does not interfere with job performance.

Intoxication or use of alcohol on the job is not protected. A test to determine the illegal use of drugs is not considered a medical test that is governed by the Human Rights Law. Agencies have differing requirements and policies with regard to drug testing.

If an individual is protected by the Human Rights Law, adjustment to work schedules, where needed to allow for ongoing treatment, is allowed as an accommodation where reasonable, if the individual is still able to reasonably perform the essential functions of the job, including predictable and regular attendance.

See above: [Drug and Alcohol-Free Workplace Policy](#).

### **Guide dogs, hearing dogs, and service dogs.**

Users of guide dogs, hearing dogs, or service dogs that are trained as provided in the Human Rights Law are given protection by the Human Rights Law.<sup>52</sup>

The use of such a dog is not considered a “reasonable accommodation,” but a right protected separately under the Human Rights Law, and the dog owner need not specifically request permission to bring the dog into the workplace. This specific provision has no parallel in the federal ADA, under which the matter would instead be analyzed to determine whether a reasonable accommodation is appropriate.

This right to be accompanied by such dogs in the workplace applies only to dogs that meet the definitions found in the Human Rights Law.

A “guide dog” or “hearing dog” is a dog that is trained to aid a person who is blind, deaf or hard of hearing, is actually used to provide such aid, and was trained by a guide or hearing dog training center or professional guide or hearing dog trainer.<sup>53</sup>

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<sup>51</sup> See generally 9 N.Y.C.R.R. § 466.11(h).

<sup>52</sup> Human Rights Law § 296.14.

<sup>53</sup> Human Rights Law § 296.14.

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

A “service dog” may perform a variety of assistive services for its owner. However, to meet the definition, the dog must be trained by a service dog training center or professional service dog trainer.<sup>54</sup>

Dogs that are considered therapy, companion or other types of assistance dogs, but who have not been professionally trained as stated in the definitions above, are not covered by this provision.<sup>55</sup>

The provision also does not apply to animals other than dogs, regardless of training.

Dogs not meeting one of the definitions, or animals other than dogs, may provide assistance or companionship to a person with a disability. However, they are generally **not** permitted into the workplace as a reasonable accommodation, because the workplace and other employees can be adversely impacted by animals that are not professionally trained by guide, hearing or service dog trainers, as provided above. The New York State Civil Service Law provides qualified employees with special leave benefits for the purposes of obtaining service animals or guide dogs and acquiring necessary training.<sup>56</sup>

## PREDISPOSING GENETIC CHARACTERISTICS

No decision affecting hiring, promotion, firing or a term, condition or privilege of employment shall discriminate on the basis of the applicant or employee having a predisposing genetic characteristic, nor shall employees be harassed or otherwise discriminated against on such basis, or perceived basis.

Testing for such genetic characteristics is prohibited in most circumstances.

### **Statutory protection.**

Discrimination on the basis of a genetic characteristic is unlawful pursuant to Human Rights Law § 296.1, § 296.19, § 296-c (for interns) and § 296-d (for non-employees

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<sup>54</sup> Human Rights Law § 296.14.

<sup>55</sup> A dog may be licensed as a “service” dog, and nevertheless not meet the definition of service dog for purposes of the Human Rights Law. N.Y. Agriculture & Markets Law § 110, which requires the licensing of dogs, permits municipalities to exempt from licensing fees various categories of dogs, including “service” and “therapy” dogs, but the section provides no definitions of those categories.

<sup>56</sup> Civil Service Law § 6(1).

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working in the workplace). It is also covered by the federal Genetic Information Nondiscrimination Act (GINA).<sup>57</sup>

### **What is a predisposing genetic characteristic?**

A predisposing genetic characteristic is defined as “any inherited gene or chromosome, or alteration thereof, . . . determined by a genetic test or inferred from information derived from an individual or family member that is scientifically or medically believed to predispose an individual or the offspring of that individual to a disease or disability, or to be associated with a statistically significant increased risk of development of a physical or mental disease or disability.”<sup>58</sup>

### **How is the employee or applicant protected?**

It is an unlawful discriminatory practice for any employer to directly or indirectly solicit, require, or administer a genetic test to a person, or solicit or require information from which a predisposing genetic characteristic can be inferred as a condition of employment or pre-employment application.<sup>59</sup> It is also unlawful for an employer to buy or otherwise acquire the results or interpretation of an individual's genetic test results or information from which a predisposing genetic characteristic can be inferred or to make an agreement with an individual to take a genetic test or provide genetic test results or such information.<sup>60</sup>

An employee may give written consent to have a genetic test performed, for purposes of a worker's compensation claim, pursuant to civil litigation, or to determine the employee's susceptibility to potentially carcinogenic, toxic, or otherwise hazardous chemicals or substances found in the workplace environment. The employer may not take any adverse action against an employee on the basis of such voluntary test.<sup>61</sup>

### **Exceptions.**

An employer may require a specified genetic test as a condition of employment where such a test is shown to be directly related to the occupational environment, such that the employee or applicant with a particular genetic anomaly might be at an increased risk of disease as a result of working in that environment.<sup>62</sup> However, the employer may not take adverse action against the employee as a result of such testing.

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<sup>57</sup> As with Title VII, the ADA and the ADEA, the Genetic Information Nondiscrimination Act is enforced by the federal Equal Employment Opportunity Commission. When codified, GINA was distributed throughout various sections of Titles 29 and 42 of the United States Code. For more details on GINA, see <http://www.eeoc.gov/laws/types/genetic.cfm>.

<sup>58</sup> Human Rights Law § 292.21-a.

<sup>59</sup> Human Rights Law § 296.19(a)(1).

<sup>60</sup> Human Rights Law § 296.19(a)(2).

<sup>61</sup> Human Rights Law § 296.19(c) and (d).

<sup>62</sup> Human Rights Law § 296.19(b).

## FAMILIAL STATUS

No decision affecting hiring, promotion, firing or a term, condition or privilege of employment shall discriminate on the basis of a person's familial status, nor shall employees be harassed or otherwise discriminated against on such basis, or perceived basis.

"Familial status" includes being pregnant, having a child under the age of 18, having legal custody of any person under the age of 18, or having a person under the age of 18 residing in the home of the designee of the parent, or being in the process of securing custody, adoption or foster care placement of any person under 18.

### **Statutory protection.**

Discrimination on the basis of familial status is unlawful pursuant to Human Rights Law § 296.1 and § 296-d (for non-employees working in the workplace). Familial status is not a protected class under federal law.

### **Familial status does not include the identity of the children.**

Parents or guardians of children are protected from discrimination on the basis of the **status** of being a parent or guardian, not with regard to who their children are. Therefore, actions taken against an employee because of who their child is, or what that child has done, do not implicate familial status discrimination.

### **Nepotism.**

Nepotism means hiring, granting employment benefits, or giving other favoritism based on the identity of a person's family member. Anti-nepotism rules do not implicate familial status discrimination, because anti-nepotism rules involve the **identity** of the employees as relatives, not their **status** as parent, child, or spouse. The Public Officers Law provides that a State employee may not control or influence decisions to hire, fire, supervise or discipline a family member.<sup>63</sup> Moreover, other acts of nepotism not specifically governed by this provision may violate more general conflict of interest provisions in the New York ethics statutes.

### **What is familial status discrimination?**

Familial status discrimination would include, but not be limited to, making employment decisions about an employee or applicant because:

- they are pregnant;
- they have children at home, or have "too many" children;
- of a belief that someone with children will not be a reliable employee;
- they are a single parent;

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<sup>63</sup> Anti-nepotism rules for all State government workplaces are found in N.Y. Public Officers Law § 73.14.

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

- they are a parent, regardless of living arrangements;
- they are living with and caring for a grandchild;
- they are a foster parent, or are seeking to become a foster parent, or to adopt a child;
- a father has obtained custody of one or more of his children and will be the primary caretaker;
- of a belief that mothers should stay home with their children; or
- of any other stereotyped belief or opinion about parents or guardians of children under the age of 18.

### **No requirement of reasonable accommodation.**

The Human Rights Law explicitly states that the familial status provisions do not create any right to reasonable accommodation on that basis.<sup>64</sup> Therefore, the employer is not required to accommodate the needs of the child or children and is not required to grant time off for the parent to attend school meetings, concerts, sporting events, etc., as an accommodation. However, the employer must grant such time off to the same extent that time off is granted to employees for other personal reasons.

The familial status protections do not expand or decrease any rights that a parent or guardian has under the federal Family Medical Leave Act or the New York State Paid Family Leave Act (where these are applicable) to time off to care for family members. (See above: [Family Medical Leave Act and Paid Family Leave.](#))

### **Pregnancy and childbirth discrimination.**

Discrimination on the basis of pregnancy constitutes familial status discrimination. (See below: [Pregnancy, Childbirth and Parental Leave.](#))

## **MARITAL STATUS**

No decision affecting hiring, promotion, firing or a term, condition or privilege of employment shall discriminate on the basis of a person's marital status, nor shall employees be harassed or otherwise discriminated against on such basis, or perceived basis.

"Marital status" is the condition of being single, married, separated, divorced, or widowed.

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<sup>64</sup> Human Rights Law §296.3

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

### **Statutory protection.**

Discrimination on the basis of marital status is unlawful pursuant to Human Rights Law § 296.1 and § 296-c. Marital status is not covered by federal law.

### **Marital status does not include the identity of the spouse.**

Discrimination based on the identity of the individual to whom a person is married is not marital status discrimination, as it is only the status of being married, single, divorced, or widowed that is protected. Thus, terminating employment because of the actions of a spouse would not be considered marital status discrimination, because the action was taken not based on the fact that the employee was married but that the employee was married to a particular person.

### **Nepotism.**

Nepotism means hiring, granting employment benefits, or other favoritism based on the identity of a person's spouse or other relative. The Public Officers Law provides that a State employee may not control or influence decisions to hire, fire, supervise or discipline a spouse or other relative.<sup>65</sup> Moreover, other acts of nepotism not specifically governed by this provision may violate more general conflict of interest provisions in the New York ethics statutes. Such anti-nepotism rules do not implicate marital status discrimination.

### **What is marital status discrimination?**

Some examples of marital status discrimination are:

- expecting an employee to work a disproportionate number of extra shifts or at inconvenient times because he or she is not married, and therefore won't mind.
- selecting a married person for a job based on a belief that married people are more responsible or more stable.
- giving overtime or a promotion to a married person rather than a single person based on a belief that the single person does not have to support anyone else.

## **STATUS AS A VICTIM OF DOMESTIC VIOLENCE**

No decision affecting hiring, promotion, firing or a term, condition or privilege of employment shall discriminate on the basis of a person's status as a victim of domestic violence, nor shall employees be harassed or otherwise discriminated against on such basis, or perceived basis. A victim of domestic violence is "any person over the age of

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<sup>65</sup> Anti-nepotism rules for all State government workplaces are found in N.Y. Public Officers Law § 73.14.

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sixteen, any married person or any parent accompanied by his or her 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, strangulation, identity theft, grand larceny or coercion; and (i) 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 (ii) such act or acts are or are alleged to have been committed by a family or household member."<sup>66</sup>

### **Statutory protection.**

Discrimination based on status as a victim of domestic violence is unlawful pursuant to Human Rights Law § 296.1, § 296.22, § 296-c (for interns) and § 296-d (for non-employees working in the workplace). There is no similar federal protection.

### **Executive Order concerning State workers.**

Executive Order No. 2, dated January 1, 2011, reissued Executive Order No. 19,<sup>67</sup> which requires adoption of domestic violence and the workplace policies by all executive branch State agencies.

### **Purpose of domestic violence and the workplace policies.**

Domestic violence permeates the lives and compromises the safety of New York State residents with tragic, destructive, and sometimes fatal results. Domestic violence occurs within a wide spectrum of relationships, including married and formerly married couples, couples with children in common, couples who live together or have lived together, gay, lesbian, bisexual and transgender couples, and couples who are dating or who have dated in the past.

Domestic violence often spills over into the workplace, compromising the safety of both victims and co-workers and resulting in lost productivity, increased health care costs, increased absenteeism, and increased employee turnover. The purpose of the policy is to address the impacts of domestic violence already being felt in the workplace.

The workplace can sometimes be the one place where the victim is not cut off from outside support. The victim's job, financial independence, and the support of the workplace can be part of an effective way out of the abusive situation. Therefore, the domestic violence and the workplace policy aims to support the victim in being able to

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<sup>66</sup> N.Y. Social Service Law §459-a.

<sup>67</sup> Issued by Gov. Eliot L. Spitzer on October 22, 2007.

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

retain employment, find the resources necessary to resolve the problem, and continue to serve the public as a State employee.

### **Meeting the needs of domestic violence victims.**

A victim of domestic violence can ask the employer for accommodations relating to their status, which can include the following:

- Employee's need for time off to go to court, to move, etc., should be granted at least to the extent granted for other personal reasons.
- If an abuser of an employee comes to the workplace and is threatening, the incident should be treated in same manner as any other threat situation. It is not to be treated as just the victim's problem which the victim must handle on her or his own. The victim of domestic violence must not be treated as the "cause" of the problem and supervisory employees must take care that no negative action is taken against the victim because, for example, the abuser comes to the workplace, the victim asks the employer to notify security about the potential for an abuser to come to the workplace, or the victim provides an employer with information about an order of protection against the abuser.
- If a victim needs time off for disability caused by the domestic violence, it should be treated the same as any temporary disability. This includes time off for counseling for psychological conditions caused by the domestic violence. (See above: [Disability](#). Note: temporary disabilities are covered under the Human Rights Law.)
- The State's Domestic Violence and the Workplace Policy requires this and more. Employees should consult their agency's policy to understand the support it affords to victims of domestic violence, which may include the following:
  - Assistance to the employee in determining the best use of his/her attendance and leave benefits when an employee needs to be absent as a result of domestic violence.
  - Assistance with enforcement of all known court orders of protection, particularly orders in which the abuser has been ordered to stay away from the work site.
  - Refraining from any unnecessary inquiries about domestic violence.
  - Maintenance of confidentiality of information about the domestic violence victim to the extent possible.
  - Establishment of a violence prevention procedure, such as a policy to call "911" if an abuser comes to the workplace.
  - Working with the domestic violence victim to develop a workplace safety plan.

In addition, the policy also sets out standards for the agency to hold employees accountable who utilize State resources or use their position to commit an act of domestic violence.

## **Human Rights Law reasonable accommodation requirements for leave time.**

State employees have the protections described above, which are more extensive than the protections explicitly afforded employees generally in the State (public and private) by the Human Rights Law. The Law provides for leave time as a reasonable accommodation for the following needs related to the domestic violence:

- Medical attention for the victim, or a child who is the victim;
- Obtaining services from a domestic violence shelter, program or rape crisis center;
- Obtaining psychological counseling, including for a child who is a victim;
- For safety planning, or taking action to increase safety, including temporary or permanent relocation;
- Obtaining legal services, assisting with prosecution, or appearing in court.

## **Time off for legal proceedings.**

In addition to the requirement of the domestic violence and the workplace policy that victims be granted reasonable time off to deal with domestic violence, time off for legal proceedings is addressed by the Penal Law. It is illegal for an employer to take any adverse action against an employee who is a victim of a crime for taking time off to appear in court as a witness, to consult with a district attorney, or to obtain an order of protection.<sup>68</sup>

## **Unemployment insurance benefits.**

If a victim must leave a job because of domestic violence, he or she is not necessarily barred from receiving unemployment insurance benefits. Circumstances related to domestic violence may be “good cause” for voluntarily quitting a job. Also, job performance problems related to domestic violence (such as absenteeism or tardiness) will not necessarily bar benefits.<sup>69</sup>

## **Further information and support.**

Dealing with domestic violence requires professional assistance. Domestic violence can be a dangerous or life-threatening situation for the victim and others who may try to become involved. Both victims and employers may contact the NYS Office for the Prevention of Domestic Violence for further information.

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<sup>68</sup> N.Y. Penal Law § 215.14.

<sup>69</sup> N.Y. Labor Law § 593.

## **PREGNANCY, CHILDBIRTH AND FAMILY LEAVE**

Discrimination on the basis of pregnancy constitutes discrimination on the basis of sex and familial status. Furthermore, medical conditions related to pregnancy or childbirth must be reasonably accommodated in the same manner as any temporary disability. Parental leave is available to employees on a gender-neutral basis.

### **Statutory protection.**

Discrimination based on sex and familial status is unlawful pursuant to Human Rights Law § 296.1, § 296-c (for interns based on sex) and § 296-d (for non-employees working in the workplace). Sex, but not familial status, is a protected class under federal law. Reasonable accommodation of pregnancy-related conditions is required by the Human Rights Law.<sup>70</sup> There is no similar requirement under federal law, unless the pregnancy-related condition meets the definition of “disability” under federal law. Also, the federal Family Medical Leave Act and the New York State Paid Family Leave Act (where these are applicable) may entitle an employee leave. (See: [Family Medical Leave Act and Paid Family Leave](#).)

### **Pregnancy discrimination.**

No decision regarding hiring, firing or the terms, condition and privileges of employment may be based on the fact that an applicant or employee is pregnant or has recently given birth. A pregnant individual may not be compelled to take a leave of absence unless pregnancy prevents that individual from performing the duties of the job in a reasonable manner.<sup>71</sup> Disability discrimination may also be implicated where discrimination is based on limitations or perceived limitations due to pregnancy.

### **Reasonable accommodation of pregnancy-related conditions.**

Any medical condition related to pregnancy or childbirth that does prevent the performance of job duties entitles the individual to reasonable accommodation, including time off consistent with the medical leave policies applicable to any disability. The mere fact of being pregnant does not trigger the requirement of accommodation. But, any condition that “inhibits the exercise of a normal bodily function or is demonstrable by medically accepted clinical or laboratory diagnostic techniques”<sup>72</sup> must be accommodated, when necessary, to allow the employee to perform the essential functions of the job.

An agency may require a doctor’s note to substantiate the request but must maintain the confidentiality of an employee’s medical information. The Human Rights Law requires that the employee cooperate in providing medical or other information needed

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<sup>70</sup> Human Rights Law § 296.3(a).

<sup>71</sup> Human Rights Law § 296.1(g) and § 296-c(2)(e).

<sup>72</sup> Human Rights Law § 292.21-f.

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to verify the pregnancy-related condition, or that is otherwise necessary for consideration of the accommodation.<sup>73</sup> (See above: [Disability](#).)

While pregnancy-related conditions are treated as temporary disabilities for purposes of applying existing regulations under the Human Rights Law, pregnancy-related conditions need not meet any definition of disability to trigger an employer's obligation to accommodate under the law. Any medically-advised restrictions or needs related to pregnancy will trigger the need to accommodate, including such things as the need for extra bathroom breaks, or increased water intake. The Human Rights Law specifically provides that a pregnancy-related condition includes lactation.

### **Right to express breast milk in the workplace.**

Lactating mothers have the right to express breast milk in the workplace, as follows:

An employer shall provide reasonable unpaid break time or permit an employee to use paid break time or meal time each day to allow an employee to express breast milk for her nursing child for up to three years following child birth. The employer shall make reasonable efforts to provide a room or other location, in close proximity to the work area, where an employee can express milk in privacy. No employer shall discriminate in any way against an employee who chooses to express breast milk in the work place. (See N.Y. Labor Law § 206-c)

The right to express breast milk in the workplace is NOT an accommodation. However, the employing agency may require lactating mothers to use a procedure to notify the employer that the employee will be expressing breast milk to ensure appropriate scheduling of breaks and use of any lactation facility.

### **Parental leave.**

Any parent of a newborn child, a newly adopted child, or a sick child is entitled to available child care leave without regard to the sex of the parent. Only the woman who gives birth, however, is entitled to any medical leave associated with pregnancy, childbirth and recovery.

In general, the State as an employer cannot take adverse action against employees who take qualifying medical leave for the birth or adoption of a child, for their own serious health condition, or to care for a family member with a serious health condition which qualifies under the federal Family and Medical Leave Act.<sup>74</sup> The Act entitles eligible employees to take up to a total of 12 weeks of unpaid leave during a calendar year.

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<sup>73</sup> Human Rights Law § 296.3.

<sup>74</sup> 29 U.S.C. § 2601 et seq.

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

### **Paid Family Leave.**

The New York State Paid Family Leave Law<sup>75</sup> provides for paid leave to bond with a newly born, adopted or fostered child; care for a close relative with a serious health condition; or assist loved ones when a family member is deployed abroad on active military service. The amount of paid leave available increases to a total of 12 weeks by 2021. State employees not represented by a union in bargaining units 06, 18, 46 and 66 are covered by the law. State employees represented by a union may be covered if Paid Family Leave is collectively bargained for.

More information is available on the New York State website at <https://www.ny.gov/new-york-state-paid-family-leave/paid-family-leave-information-employees>. This includes information on who is eligible, and how to apply.

## **PRIOR ARREST RECORDS, YOUTHFUL OFFENDER ADJUDICATIONS AND SEALED CONVICTION RECORDS**

It is an unlawful discriminatory practice for an employer to make any inquiry about any arrest or criminal accusation of an individual, not then pending against that individual, which has been resolved in favor of the accused or adjourned in contemplation of dismissal or resolved by a youthful offender adjudication or resulted in a sealed conviction. It is unlawful to require any individual to divulge information pertaining to any such arrest, criminal accusation or sealed conviction, or to take any adverse action based on such an arrest, criminal accusation or sealed conviction.

### **Statutory protection.**

This protection is provided by Human Rights Law § 296.16.

### **What is unlawful?**

It is generally unlawful to ask an applicant or employee whether he or she has ever been arrested or had a criminal accusation filed against him or her. It is also generally unlawful to inquire about youthful offender adjudications or sealed records. It is **not** unlawful to ask if a person has any currently pending arrests or pending criminal charges. It is also not unlawful to inquire about convictions. (See below: [Previous Conviction.](#))

It is generally unlawful to require an individual to divulge information about the circumstances of an arrest or accusation no longer pending. In other words, the employer cannot demand information from the individual accused in order to

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<sup>75</sup> Workers Compensation Law, art. 9, §§ 200, et seq.

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

“investigate” the circumstances behind an arrest. It is **not** unlawful to require an employee to provide information about the outcome of the arrest, i.e. to demonstrate that it has been terminated in favor of the accused. The agency may be able to take action against an employee for the conduct that led to the arrest but Human Rights Law §296.16 provides that no person “shall be required to divulge information” pertaining to the arrests resolved as set out below.

### **Pending arrest or charges.**

As long as an arrest or criminal accusation remains pending, the individual is not protected. The agency may refuse to hire or may terminate or discipline the employee in accordance with applicable law or collective bargaining agreement provisions. The agency may also question the employee about the pending arrest or accusation, the underlying circumstances, and the progress of the matter through the criminal justice system.

However, if the employee is arrested while employed, is not terminated by the employer, and the arrest is subsequently terminated in favor of the employee, the employee cannot then initiate an adverse action against the employee based on the arrest and cannot question the employee about the matter. The employer can require that the employee provide proof of the favorable disposition in a timely manner.

### **What specific circumstances are protected?**

The arrest or criminal accusation must have been:

- dismissed, pursuant to Criminal Procedure Law § 160.50;
- adjourned in contemplation of dismissal (unless such dismissal has been revoked) pursuant to Criminal Procedure Law §§ 170.55, 170.56, 210.46, 210.47, or 215.10;
- disposed of as a youthful offender adjudication, pursuant to Criminal Procedure Law § 720.35 (which are automatically sealed);
- resulted in a conviction for a violation, which was sealed pursuant to Criminal Procedure Law § 160.55 (pertaining to certain violations);
- resulted in a conviction, which was sealed pursuant to Criminal Procedure Law § 160.58 (pertaining to controlled substances); or
- resulted in a conviction, which was sealed pursuant to Criminal Procedure Law § 160.59 (pertaining to certain convictions which may be sealed ten or more years after the end of incarceration).

### **Sealed records.**

Whether or not a record is sealed is a factual question. Many records that could be sealed are not in fact sealed. Sealing a record requires that the court specifically order that the record be sealed. The applicant or employee is responsible to know the status

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of a sealable conviction. If it is not in fact sealed, then it is a conviction record that can be required to be disclosed. (See below: [Previous Conviction](#).)

### **Exceptions.**

The Human Rights Law explicitly states that arrest inquiries, requests for information, or adverse actions may be lawful where such actions are “specifically required or permitted by statute.”<sup>76</sup>

These provisions do not apply to an application for employment as a police officer or peace officer.<sup>77</sup>

The provisions do not fully apply to an application for employment or membership in any law enforcement agency. For those positions, arrests or criminal accusations that are dismissed pursuant to Criminal Procedure Law § 160.50 may not be subject to inquiry, demands for information, or be the basis of adverse action. However, the other types of terminations (youthful offender adjudication or sealed convictions) may be inquired into and taken into consideration for jobs with law enforcement agencies.

## **PREVIOUS CONVICTION RECORDS**

It is unlawful to deny any license or employment, to refuse to hire, or terminate, or take an adverse employment action against an applicant or employee, by reason of their having been convicted of one or more criminal offenses, if such refusal is in violation of the provisions of Article 23-A of the Correction Law. The Correction Law provides the standards to be applied and factors to be considered before an employment decision may be based on a previous conviction, including the factor that it is the public policy of the State of New York to encourage the licensure and employment of those with previous criminal convictions

### **Statutory protection.**

This protection is provided by Human Rights Law § 296.15, in conjunction with Article 23-A of the N.Y. Correction Law.

### **Factors from the Correction Law.**

The Correction Law provides that an employer may not refuse to hire, or terminate an employee, or take an adverse employment action against an individual, because that individual has been previously convicted of one or more criminal offenses, or because of a belief that a conviction record indicates a lack of "good moral character," **unless** either there is a direct relationship between one or more of the previous criminal

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<sup>76</sup> Human Rights Law § 296.16; see e.g. Civil Service Law § 50(4).

<sup>77</sup> Police and peace officer as defined in Criminal Procedure Law §§ 1.20 and 2.10, respectively.

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

offenses and the specific employment sought or held, or employment of the individual would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public.<sup>78</sup>

In order to determine whether there is either a direct relationship or unreasonable risk (as mentioned above), the employer must apply the factors set forth in the Correction Law, as follows:

- (a) The public policy of this State, as expressed in this act, to encourage the licensure and employment of persons previously convicted of one or more criminal offenses.
- (b) The specific duties and responsibilities necessarily related to the license or employment sought or held by the person.
- (c) The bearing, if any, the criminal offense or offenses for which the person was previously convicted will have on his fitness or ability to perform one or more such duties or responsibilities.
- (d) The time which has elapsed since the occurrence of the criminal offense or offenses.
- (e) The age of the person at the time of occurrence of the criminal offense or offenses.
- (f) The seriousness of the offense or offenses.
- (g) Any information produced by the person, or produced on his behalf, in regard to his rehabilitation and good conduct.
- (h) The legitimate interest of the public agency or private employer in protecting property, and the safety and welfare of specific individuals or the general public.<sup>79</sup>

Also, in making the determination, the employer must give consideration to a certificate of relief from disabilities or a certificate of good conduct issued to the individual, which creates a presumption of rehabilitation in regard to any offense specified in the certificate.<sup>80</sup>

The factors must be applied on a case-by-case basis and each of the factors must be considered. The employing agency must take into account the individual's situation by analyzing factors (d) through (g) and must also analyze the specific duties and responsibilities of the job pursuant to factors (b), (c) and (h). If any additional documentation is needed, it must be requested of the applicant or employee before any adverse determination is made. A justification memorandum that merely tracks the statute but without rational application of the factors to the facts of the case may lead to a finding that an adverse determination was arbitrary and capricious.

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<sup>78</sup> N.Y. Correction Law § 752.

<sup>79</sup> N.Y. Correction Law § 753.1.

<sup>80</sup> N.Y. Correction Law § 753.2.

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### **Conviction must be “previous.”**

Individuals are protected for *previous* convictions. A conviction that occurs during employment does not entitle the individual to these protections.

### **Inquiries and misrepresentation.**

Unlike many other areas covered by the Human Rights Law, an employer is not prevented from asking an individual to disclose prior convictions as part of the employment application process or at any time during employment.

If the employer learns at any time that that an applicant or employee has made a misrepresentation with regard to any previous conviction, it may be grounds for denial or termination of employment.<sup>81</sup>

### **Interaction with the arrest provisions.**

The arrest provisions<sup>82</sup> of the Human Rights Law interact with the conviction provisions. Although it is *lawful to ask* about previous convictions, it is *unlawful to ask* about previous arrests resolved in an individual’s favor, or adjourned in contemplation of dismissal, or about youthful offender adjudications, or about convictions that have been sealed pursuant to Criminal Procedure Law § 160.55 or § 160.58. If any individual with a youthful offender record or a sealed conviction states that he or she has no previous convictions, this is not a misrepresentation. The employer is not entitled to any information about youthful offender records or sealed convictions. (See above: [Prior Arrest.](#))

### **Enforcement only by court action.**

A State employee or an applicant for State employment cannot file a complaint with the Division of Human Rights regarding denial of employment due to a previous conviction. An individual can pursue enforcement under the Human Rights Law only by filing an Article 78 proceeding in State Supreme Court.<sup>83</sup> However, State employees may file complaints with respect to the Prior Arrest provisions of the Human Rights Law with the Division of Human Rights. (See above: [Prior Arrest.](#))

### **Exceptions.**

It is not unlawful to deny employment if, upon weighing the factors set out above, the previous criminal offense bears a direct relationship to the job duties, or if employment of the individual would involve an unreasonable risk to safety or welfare, as explained in more detail above.

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<sup>81</sup> N.Y. Correction Law § 751; see also Civil Service Law section 50(4).

<sup>82</sup> Human Rights Law § 296.16.

<sup>83</sup> N.Y. Correction Law § 755.1.

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

An individual may be required to disclose previous convictions, unless they are sealed, as explained in more detail above.

These protections do not apply to “membership in any law enforcement agency.”<sup>84</sup>

## HARASSMENT PROHIBITED

Harassment in the workplace based upon an individual’s protected class status is prohibited. Harassment that creates a hostile work environment, based on the protected categories discussed in this Handbook, is unlawful pursuant to the Human Rights Law. (See above: [Sexual Harassment](#).) State employees, interns, contractors, and individuals doing business with State employees are entitled to a work environment which promotes respect for all, and actions that demonstrate bias, harassment, or prejudice will not be tolerated.

Harassment consists of words, signs, jokes, pranks, intimidation or physical violence that is directed at an employee or intern because of their membership in any protected class, or perceived class. It also includes workplace behavior that is offensive and based on stereotypes about a particular protected group, or which is intended to cause discomfort or humiliation on the basis of protected class membership.

Harassment is unlawful in all workplaces in New York State, when it subjects an individual to inferior terms, conditions, or privileges of employment. Harassment need not be severe or pervasive to be unlawful, and can be any harassing conduct that consists of more than petty slights or trivial inconveniences.<sup>85</sup> In fact, the Human Rights Law now provides that even if a recipient of harassment did not make a complaint about the harassment to the employer, the failure of the employee to complain shall not be determinative of whether the employer is liable.<sup>86</sup>

### **Appropriate supervision is not harassment.**

Normal workplace supervision, such as enforcing productivity requirements, requiring competent job performance, or issuing disciplinary warnings or notices, is **not** harassment. If these actions are imposed on the basis of protected class membership, then this may be discrimination in the terms, condition or privileges of employment.

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<sup>84</sup> N.Y. Correction Law § 750.5.

<sup>85</sup> Human Rights Law § 296.1(h).

<sup>86</sup> Human Rights Law § 296.1(h).

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

### **Harassment by a non-employee.**

The employing agency has the duty to prevent harassment in the workplace including harassment by non-employees, such as vendors, consultants, clients, customers, visitors or interns.

### **Harassment of non-employees.**

Non-employees in the workplace, who are performing work under contract, are explicitly protected from sexual harassment (and all other types of workplace discrimination) by Human Rights Law § 296-d.

In accord with statewide policy, employees and interns are subject to discipline for harassment of *anyone* in the workplace, including contractors, clients, vendors, or any members of the public.

## **RETALIATION**

Retaliation is prohibited. Retaliation occurs when an adverse action or actions are taken against the employee as a result of filing a discrimination complaint or participating in the filing of, or investigation of, a discrimination complaint, or requesting an accommodation. The adverse action does not need to be job related or occur in the workplace. Retaliation can be any action, more than trivial, that would have the effect of dissuading a reasonable person from making or supporting an allegation of discrimination. Such action may be taken by an individual employee.

Actionable retaliation by an employer can occur after the individual is no longer employed by that employer. This can include giving an unwarranted negative reference for a former employee.

An adverse action is not retaliatory merely because it occurs after the employee engaged in protected activity. Employees continue to be subject to all job requirements and disciplinary rules after having engaged in such activity. In order to make a claim of retaliation, the individual must be able to substantiate the claim that the adverse action was retaliatory.

The prohibition against retaliation protects any individual who has filed a complaint, testified or assisted in any discrimination complaint investigation, or opposed any discriminatory practices forbidden by the Human Rights Law, federal anti-discrimination laws or pursuant to the anti-discrimination provisions of this Handbook. Even if a discrimination complaint is not substantiated as a violation of state or federal law or the policies set forth in this Handbook, the individual is protected if they filed a discrimination complaint, participated in a discrimination-related investigation, or

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opposed discrimination with good faith belief that the practices were discriminatory on the basis of a protected class status.

### **Administrative or court proceedings.**

A complainant or witness is absolutely protected against retaliation for any oral or written statements made to the Division of Human Rights, the Equal Employment Opportunity Commission, or a court in the course of proceedings, regardless of the merits or disposition of the underlying complaint.

### **Opposing discriminatory practices.**

Opposing discriminatory practices includes:

- Filing an internal complaint of discrimination with OER, with the employing agency or reporting discriminatory actions to a supervisor or other appropriate person, either verbally or in writing;
- Participating in an investigation of discrimination complaints;
- Complaining that another person's rights under the Human Rights Law, federal anti-discrimination statutes or this Handbook were violated; or
- Encouraging a fellow employee to report discriminatory practices.

However, behaving inappropriately towards a person whom an employee deems to be engaged in discriminatory or harassing conduct is not protected opposition to alleged discriminatory practices. Employees should instead file a complaint with OER, or may complain to a supervisor, manager, or human resources officer, who are then required to report the complaint to OER, or in accordance with any applicable complaint procedure.

Retaliation by an employer is also unlawful pursuant to the Human Rights Law and the Civil Service Law.<sup>87</sup> The federal statutes mentioned in this Handbook also prohibit retaliation.

There is no protection for a person who opposes practices the person finds merely distasteful or wrong, while having no reasonable basis to believe those practices were in violation of the applicable State or federal law, or State policy, as set forth in this Handbook. Furthermore, the prohibition against retaliation does not protect individuals from making false charges of discrimination. An example of this would include filing a complaint with OER, the Division of Human Rights, the EEOC, or any court, simply because another employee filed a complaint against you or another employee.

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<sup>87</sup> Human Rights Law § 296.7; see also Civil Service Law § 75-B, which gives protection to "whistleblowers."

## REPORTING DISCRIMINATION IN THE WORKPLACE

As noted throughout this Handbook, any State employee who has been subject to any discrimination, bias, prejudice, harassment or retaliation based on any of the protected classes covered by the Handbook, may file a discrimination complaint with OER. The New York State Employee Discrimination Complaint Form (“Complaint Form”) is located at <https://oer.ny.gov> under the “Anti Discrimination Investigations” heading.

The Complaint Form is a web-based, fillable form, and after inserting the required information, employees can send the complaint directly to OER. When OER receives a Complaint Form, the individual submitting the complaint will receive an acknowledgment. The Complaint Form may also be filled out and sent to OER via email or regular mail at:

[Antidiscrimination@oer.ny.gov](mailto:Antidiscrimination@oer.ny.gov)

or

Office of Employee Relations  
Anti Discrimination Investigations Division  
2 Empire State Plaza  
Albany, NY 12223

Employees are not required to (but may) report their allegations of discrimination to their supervisor, upper level management, or their Human Resources Department. Individuals with supervisory duties are required to report the allegations to OER and should request that the employee file the complaint directly with OER. The link to this Handbook and the complaint procedure, including the Complaint Form, should also be available on every agency’s intranet site and/or employee handbook. If you cannot locate the Complaint Form or the Handbook, please contact your supervisor or manager or the agency’s Human Resources Department and they will assist you in obtaining this information.

### **Confidentiality and cooperation.**

All discrimination complaints and investigations will be kept confidential to the extent possible. Documentation and reports will not be disclosed, except to the extent required to implement the policies in this Handbook. Any individual involved in an investigation is advised to keep all information regarding the investigation confidential. Breaches of confidentiality may constitute retaliation, which is a separate and distinct category of discrimination. Any individual who reports discrimination, or who is experiencing discrimination, must cooperate so that a full and fair investigation can be conducted, and any necessary remedial action can be promptly undertaken.

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

Employees filing a Complaint Form should describe the connection between their protected class and the conduct and/or statement that is the subject of the complaint. Investigations will evaluate whether the conduct found to have occurred violates the policies as set forth in this Handbook, not whether the conduct violates the law. If, after investigation, it is determined that a violation of this Handbook has occurred, appropriate administrative action, up to and including termination, will be recommended.

The procedures for reporting discrimination complaints are designed to ensure the State's anti-discrimination policies are followed, including the State's policies forbidding retaliation. The complaint investigation procedures provide for a prompt and complete investigation as to the complaint of discrimination, and for prompt and effective remedial action where appropriate.

An employee with supervisory responsibility has a duty to report any discrimination that they observe or otherwise know about. A supervisor who has received a report of workplace discrimination has a duty to report it to OER, or in accordance with the employing agency's policy, even if the individual who complained requests that it not be reported. Any discrimination or potential discrimination that is observed must be reported, even if no complaint has been made. Failure to comply with the duty to report may result in disciplinary and/or administrative action.

### **Discrimination must be investigated and appropriate corrective action taken.**

The employer has the duty to ensure that complaints of workplace discrimination are investigated promptly. If, after investigation, it is determined that discriminatory behavior is occurring, the employing agency has a duty to take prompt and effective corrective action to stop the discriminatory conduct and take such other steps as are appropriate.

Employers cannot take steps to prevent or correct discriminatory or harassing behavior unless the employer knows of the conduct.

## **PURSUING DISCRIMINATION COMPLAINTS EXTERNALLY**

The employing agency's internal complaint procedures are intended to address all complaints of discrimination. Any State employing agency which does not participate in the OER complaint investigation process is required to have a well-documented and widely disseminated procedure for employees to file, and to ensure investigation of discrimination complaints.

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

These internal complaint procedures are not intended to satisfy, replace or circumvent options available to employees through negotiated union contracts; federal, state or other civil rights enforcement agencies; and/or the judicial system. Thus, the use of these internal complaint procedures will not suspend any time limitations for filing complaints set by law or rule and will not fulfill any other requirements set by law or rule.

Employees are not required to pursue their employing agency's internal complaint procedure before filing a complaint with any external agency or with a court, based on federal or state or local law.

Listed throughout the Handbook are citations to the various laws that pertain to discrimination. Employees may be able to file complaints pursuant to these laws with administrative agencies and/or in court. There may also be additional remedies available to employees, and employees may wish to seek an attorney's advice prior to determining appropriate steps to take.

The following agencies can provide information to employees and receive and investigate complaints of employment discrimination pursuant to the New York State Human Rights Law (State Division of Human Rights) or Title VII, ADEA, ADA or GINA (U.S. Equal Employment Opportunity Commission).

- New York State Division of Human Rights ("SDHR")  
Website: [www.dhr.ny.gov](http://www.dhr.ny.gov)  
Telephone: (888)392-3644  
TTY number: (718)741-8300
- United State Equal Employment Opportunity Commission ("EEOC")  
Website: [www.eeoc.gov](http://www.eeoc.gov)  
Telephone: (800)669-4000  
TTY number: (800)669-6820

## GENERAL PROHIBITIONS AND PROVISIONS

### Unlawful inquiries.

It is an unlawful discriminatory practice for an employer to print, circulate, or use any form of application, or to make any inquiry which expresses directly or indirectly, any limitation, specification or discrimination as to any protected class, unless based upon a bona fide occupational qualification.<sup>88</sup>

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<sup>88</sup> Human Rights Law § 296.1(d) and § 296-c(2)(c).

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

Even if an inquiry is not asked with the apparent intent to express a limitation, it can become evidence of discriminatory intent in a subsequent action, by creating an appearance of discriminatory motivation. Those interviewing candidates for State positions or promotions should exercise extreme caution so as not to ask any unnecessary question or make any comment that could be interpreted as expressing a discriminatory motivation. This is simply a good employment practice.

Information gathered in furtherance of an affirmative action plan may be lawful, so long as the affirmative action is pursued in a lawful manner (which is beyond the scope of this booklet). Information on protected class membership which is collected for statistical purposes should be retained separately from a candidate's other information.

### **Interns.**

Paid interns are employees, and all provisions relating to employees explained in this document apply to paid interns. Unpaid interns are explicitly protected by Human Rights Law § 296-c, and are entitled to the same protections as employees, in most areas, wherever § 296-c is referenced in the sections above.

Unpaid interns are protected from discrimination in hiring, discharge, or the terms, conditions or privileges of employment as an intern because of the intern's age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, marital status, or domestic violence victim status. Unpaid interns are also explicitly protected from harassment.

### **Non-employees working in the workplace.**

Non-employees working in any workplace in New York State are entitled to the same protections from discrimination and harassment as employees, pursuant to Human Rights Law § 296-d. Protected non-employees include independent contractors, those receiving their paycheck from a temp agency, vendors, consultants, contracted service providers such as electricians, janitorial workers, and so on.

### **Political activities.**

The Civil Service Law provides that no appointment or selection or removal from employment shall relate to the political opinions or affiliations of any person. No person in the civil service of the State is under any obligation to contribute to any political fund or render any political service and no person shall be removed or otherwise prejudiced for refusing to do so. No person in the civil service shall discharge or promote or reduce or in any manner change the rank or compensation of another for failing to contribute money or any other valuable thing for any political purpose. No person in the civil service shall use their official authority or influence to coerce the political action of any person or body or to interfere with any election.<sup>89</sup> This law is enforced by the New York

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<sup>89</sup> Civil Service Law § 107.

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

State Joint Commission on Public Ethics. Complaints regarding this provision should not be filed with the Division of Human Rights or OER.

### **Diversity.**

New York State is committed to a nondiscriminatory employment program designed to meet all the legal and ethical obligations of equal opportunity employment. Each department develops affirmative action policies and plans to ensure compliance with equal opportunity laws. To assist in building cooperative work environments, which welcome an increasingly diverse workforce, the Department of Civil Service Staffing Services Division, and courses on diversity in the workplace, are available to agencies through OER. Contact your personnel office for more information about specific agency affirmative action policies and plans. Diversity training information is available under Training & Development on the OER website at <https://oer.ny.gov>.

### **NOTE**

This Handbook has been prepared for the general information of State employees as a summary of the various federal and state laws, executive orders, and policies that provide protection from discrimination for State employees and comprises the anti-discrimination policy of the State of New York. Employees should also refer to specific laws and executive orders, together with any employee manual and policies of their employing agency for any additional policies and protections that may apply to them.

This Handbook does not grant any legal rights to any employee, nor is it intended to bind the State in any way. Where there is a conflict between any law, regulation, order, policy or collective bargaining agreement and the text of this Handbook, such law, regulation, order, policy or agreement shall be controlling.

The State reserves the right to revise, add to, or delete any portion of this Handbook at any time, in its sole discretion, without prior notice to employees. Moreover, this Handbook is not intended to, and does not create any right, contractual or otherwise, for any employee, not otherwise contained in the particular law or executive order the Handbook summarizes.

This Handbook has been written so as to not conflict with any collective bargaining agreement that the State has entered into with any union representing its unionized employees. If there is any conflict between this Handbook and any collective bargaining agreement, the provisions of the collective bargaining agreement will control. This Handbook shall not constitute a change in any existing term and condition of employment.



NEW YORK STATE

# OLYMPIC REGIONAL DEVELOPMENT AUTHORITY

## Paid Family Leave Policy Effective As Amended June 2024

### **POLICY**

It is the policy of the State of New York Olympic Regional Development Authority (ORDA) to opt-in to New York Paid Family Leave (PFL) to provide its eligible employees with the ability to request and take PFL to: bond with a newborn, adopted or fostered child; care for a close relative with a serious health condition; or assist with family situations when a family member is deployed abroad on active military service. It is further ORDA's policy to ensure that no employee will be the subject of discrimination or retaliation for requesting or taking PFL, and that upon return from leave an employee will either be reinstated to the same position or a position that is comparable to the one held by the employee at the time of taking leave. ORDA employees who request or take PFL will not be subject to any reduction in pay or benefits as a result.

This policy applies to only those staff who are designated as MC by ORDA's Human Resources Office. Staff subject to a collective bargaining agreement and those who work less than 600 hours per year are not covered by this policy.

### **DEFINITIONS**

The term "close relative" means an employee's spouse, domestic partner, child, stepchild, parent, stepparent, parent-in-law, grandparent, or grandchild.

The term "serious health condition" means, as defined in 12 NYCRR 355.9[a][16] and as it may be amended from time to time, an illness, injury, impairment, or physical or mental condition that involves (a) inpatient care in a hospital, hospice, or residential health care facility, or (b) continuing treatment or continuing supervision by a health care provider.

The term, "domestic partner" means a person who is not related by blood to the employee and is at least eighteen years of age who is dependent upon the employee for support as defined in Section 4 of the Workers Compensation Law; or has registered as the domestic partner of an employee with any registry identified in Section 4 of the Workers Compensation Law. For the purposes of this section, the term "domestic partner" shall include the term "surviving domestic partner".

The term "M/C" shall mean only those staff designated Management Confidential by the Olympic Regional Development Authority Office of Human Resources.

### **ELIGIBILITY**

ORDA's current policy applies to employees who work a regular schedule of 20 or more hours per week. Eligibility for PFL will commence after 26 consecutive weeks of employment. M/C employees who work a regular schedule of fewer than 20 hours per week are eligible after working 175 days, which do not need to be consecutive.

Paid time off will count as a qualifying work day/days toward eligibility for PFL. However, during a period of PFL, employees will not continue to accrue either vacation or sick time. Accrual of time will resume once an employee has returned to work from PFL.

Neither citizenship nor immigration status are factors that will be considered in determining the eligibility of an employee for PFL.

Only one employee at a time may use PFL to bond with the same child or care for the same family member.

## **I. PFL BENEFITS**

### **A. Time available under PFL**

Eligible employees are entitled to up to 12 weeks of paid family leave on an annual basis.

Leave may be taken all at once or intermittently, but must be taken in full-day increments. An employee may take the maximum time-off benefit in any given 52-week period.

### **B. Benefit payments under PFL**

Benefits are based on a percentage of an employee's average weekly wage, capped at the same percentage of the New York State Average Weekly Wage as calculated annually by New York State's Department of Labor. PFL benefit payments are calculated based on 67% of the employee's average weekly wage.

**PFL benefits are subject to State and Federal income tax** (see New York State Department of Tax and Finance [Notice N-17-12](#)).

ORDA employees who take PFL are responsible for assuring that the proper tax withholding is applied to PFL benefits:

- to withhold federal taxes the employee must complete an [IRS Form W-4S](#) (Request for Federal Income Tax Withholding From Sick Pay) and submit it to the Arch Insurance Company<sup>1</sup> with the initial claim form.
- to withhold New York State taxes the employee must provide a written notice to the Arch Insurance Company<sup>2</sup> specifying the dollar amount to be withheld from each weekly benefit check. Written notice can be provided by using the New York State Paid Family Leave [State Tax Withholding Request Form](#) for this notice.

***Note: If you wish to withhold New York State taxes you must also withhold federal taxes. Questions concerning how much to withhold should be directed to a tax professional.***

### **C. Relationship with other benefits and other types of leave**

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<sup>1</sup> Or other carrier as it may be changed from time to time. For the most recent carrier information, please contact ORDA's Benefits Administrator

PFL benefits are paid directly by the insurance carrier. As a result, any deductions other than as authorized above to pay taxes, will not be taken out of the PFL benefit check. Any employee who is out of work on PFL may keep his or her health insurance benefits while out on leave, by directly paying the required portion of the premiums that would otherwise be deducted from their paycheck.

**Employees should contact ORDA's Benefit Administrator to arrange for payment of insurance premiums while out of work on PFL.**

Employees may access PFL benefits in accordance with the eligibility requirements established herein; however, PFL is a stand-alone benefit and employees may not use accrued time to supplement PFL.

Employees who are unable to work and who qualify for Workers Compensation Benefits may not use PFL benefits at the same time that they receive Workers Compensation Benefits. However, if an employee is receiving reduced earnings, he or she may be eligible for PFL and should contact the Office of Human Resources at 518-302-5307 or 518-302-5346

## **II. COST, PREMIUM PAYMENTS AND PAYROLL DEDUCTIONS**

ORDA will provide PFL benefits and pay the premium on behalf of M/C staff.

## **III. PROCESS FOR REQUESTING AND APPROVING PFL**

- A.** Requests for PFL must be made by the requesting employee directly to the insurance carrier as soon as possible but no later than 30 days after the leave commences.

Applications for PFL may be found here: <https://paidfamilyleave.ny.gov/forms>. Employees may also obtain the required forms by contacting ORDA's Benefits Administrator. Be sure to choose the correct form when applying (form PFL-1, PFL-2, PFL-3, PFL-4, or PFL-5). Note that PFL-1 is required for all applications and additional forms may be required depending on the basis for the leave request.

- B.** In addition, employees who wish to take PFL must notify ORDA's Office of Human Resources. The requesting employee should give as much notice as is practicable, in writing. Notice should include, to the extent possible, the amount of time the requesting employee plans to take for leave.

Requests submitted to ORDA are to be made using ORDA's Paid Family Leave Request Form and should include a request that ORDA complete Part B of the Request for Paid Family Leave Form (<https://paidfamilyleave.ny.gov/forms>). ORDA's Human Resources Office will return the form with Part B completed to the requesting employee. The information returned by ORDA to the requesting employee will include the employee's last 8 weeks of gross wages and a calculation of the employee's average weekly wage. **ORDA is required to complete and return the form to the requesting employee within three business days.** If the employee does not receive the completed form from ORDA within three

days, s/he should submit *Form PFL-1*, along with the rest of your request package, to ORDA's PFL insurance carrier.

**C.** Depending on the basis for the PFL, the following documentation should be submitted by the requesting employee, to the insurance carrier, along with the request:

1. For bonding with a newborn

a. If the requesting employee is the birth parent: submit a copy of the newborn's birth certificate if available, or an original copy of a health care provider certification of birth.

b. If the requesting employee is not the birth parent: A copy of the child's birth certificate, if available, naming you as the second parent, a Voluntary Acknowledgement of Paternity (Form LDSS-4418), or a Court Order of Filiation.

Or

Provide the same documentation as would be required of the birth parent plus a second document verifying the relationship to the birth parent, such as a marriage certificate, civil union, or domestic partnership document.

2. For bonding with an adopted child, provide one of the following:

- a. A copy of the court documents finalizing the adoption
- b. Documentation in furtherance of adoption
- c. A court order finalizing the adoption

If the employee requesting PFL is not the parent named in the documents, the insurance carrier may require proof verifying the employee's relationship to the parent named in the documents, such as a marriage certificate, civil union, or domestic partnership document.

3. For bonding with a fostered child

The requesting employee must submit a foster care placement letter issued by the county or city Department of Social Services or authorized voluntary foster care agency. If the requesting employee is not the parent named in the placement letter, the employee must provide proof verifying his or her relationship to the parent named in the placement letter, such as a marriage certificate, civil union, or domestic partnership document.

4. For care of a close relative with a serious health condition

Any forms and documentation as required by the insurance carrier.

5. For assisting when a family member is deployed abroad on active military service

The requesting employee must submit verification that the family member is in active military service through submission of one of the following:

- a. Covered active duty orders.
- b. A letter from the military unit documenting impending call or order to covered duty.
- c. Documentation of military leave signed by the approval authority for the military member's Rest and Recuperation.
- d. Any additional forms and documentation that may be required by the insurance carrier.

**D.** Determinations regarding benefit approval/denial are made by the insurance carrier. The carrier must pay or deny the employee's request within 18 calendar days of receipt of a completed request for PFL, or the employee's first day of leave, whichever is later.

1. **If the PFL request is granted.** Upon completion of PFL, the employee will be returned to the same or similar job that s/he was performing upon initiation of PFL. Employees need to keep Office of Human Resources apprised of their anticipated return date to ensure a seamless transition back to work.
2. **If the PFL request is denied.** If your PFL claim is denied, the insurance carrier or employer, if self-insured, will provide you with information about how to request arbitration. A neutral arbitrator will decide claim-related disputes. Employees may request arbitration at [www.nyspfla.com](http://www.nyspfla.com).

#### **IV. PROCESS FOR FILING COMPLAINTS OF PFL DISCRIMINATION**

Any employee who believes that he or she was discriminated against for requesting and/or taking PFL by having been terminated, having his or her pay and/or benefits reduced, having been disciplined, or otherwise retaliated against, should submit a formal request for job reinstatement to the Office of Human Resources using the Formal Request For Reinstatement Regarding Paid Family Leave (Form PFL-DC-119), which can be found at: <http://www.wcb.ny.gov/content/main/forms/PFL-DC-119.pdf>.

The employee must also submit a copy of this form to:

Paid Family Leave  
PO Box 9030  
Endicott, NY 13761-9030

Should ORDA not comply with the request for reinstatement within thirty (30) days of the date of submission, the affected employee has the right to a hearing with the Workers' Compensation Board (Board) using the Paid Family Leave Discrimination/Retaliation Complaint (Form PFL-DC-120), which is also

available on the Paid Family Leave website. See <http://www.wcb.ny.gov/content/main/forms/PFL-DC-120.pdf>.

The Workers Compensation Board will assemble the employee's case and schedule a hearing within forty-five (45) calendar days of receipt of the complaint.

**Note: To be eligible to file a complaint and have the right to a hearing before the Workers Compensation Board the employee must have first requested reinstatement and filed a complaint with ORDA's Office of Human Resources.**

The relief available to an employee by an administrative law judge who presides over the Workers Compensation Board Hearing includes reinstatement, payment for any lost wages, payment for attorney's fees. The law also provides for penalties against ORDA of up to \$500.

In addition to protections under the Workers' Compensation Law, in certain situations an employee may have viable claims under the New York Human Rights Law which makes it illegal for employers to discriminate against employees based on certain protected grounds, including but not limited to, sexual orientation, sex, age, marital status, pregnancy-related conditions, or familial status. For more information, please visit the Division of Human Rights website at: <https://dhr.ny.gov/complaint#howto>.

For more information on Paid Family Leave, you may call the New York State PFL Hotline at 844-337-6303, visit [www.ny.gov/PaidFamilyLeave](http://www.ny.gov/PaidFamilyLeave), or contact your venue's Human Resources office.



NEW YORK STATE

# OLYMPIC REGIONAL DEVELOPMENT AUTHORITY

## Open Data Policy Effective \_\_\_\_\_

### 1. Background

On March 11, 2013, Governor Andrew Cuomo launched the Open NY initiative which included the launch of New York State's Open Data Website, [data.ny.gov](http://data.ny.gov).

Concurrent with the launch of Open NY, Governor Cuomo issued Executive Order No. 95, "Using Technology to Promote Transparency, Improve Government Performance and Enhance Citizen Engagement." This Executive Order directed covered state entities to identify and catalogue their data, and make publishable State data available on the new transparency website.

### 2. Purpose of Policy

The New York State Olympic Regional Development Authority ("ORDA") is committed to the principles of open, accessible, efficient, and transparent government, and the use of technology to help put those principles into practice.

This policy creates a process for making ORDA data available to the public on the Open Data Website. ORDA will make its "data", as that term is defined herein, publicly available online to promote civic engagement, improve service delivery, allow for more effective communication with the public, and increase opportunities for economic development. This policy is also intended to make the operation of ORDA more transparent, effective, and accountable to the public.

### 3. Definitions

- A. Covered State Entity: (i) any State agency or department, or any office, division, bureau, or board of such State agency or department, except where the head of such agency or department is not appointed by the Governor, (ii) any State board, committee, or commission, at least one of whose members is appointed by the Governor, and (iii) all public-benefit corporations, public authorities and commissions, for which the Governor appoints the Chair, the Chief Executive, or the majority of Board Members, except for the Port Authority of New York and New Jersey.
- B. Chief Data Officer (CDO): The New York State Chief Data Officer in the Office of Information Technology Services or a designee thereof.
- C. Data: Final versions of statistical or factual information that:

- i. are in alphanumeric form reflected in a list, table, graph, chart or other nonnarrative form, that can be digitally transmitted or processed;
- ii. are regularly created or maintained by or on behalf of a covered State entity and are controlled by such entity; and
- iii. record a measurement, transaction or determination related to the mission of the covered State entity.

The term “data” shall not include image files, such as designs, drawings, photos or scanned copies of original documents; provided, however, that the term “data” shall include statistical or factual information about image files and geographic information system data.

D. Dataset: A named collection of related records maintained on a storage device, with the collection containing data organized or formatted in a specific or prescribed way, often in tabular form.

E. ITS: The New York State Office of Information Technology Services.

F. Publishable State Data: Data that is collected by a covered State entity where the entity is permitted, required, or able to make the data available to the public, consistent with any and all applicable laws, rules, regulations, ordinances, resolutions, policies or other restrictions, requirements or rights associated with the State data, including but not limited to contractual or other legal orders, restrictions or requirements. Data shall not be Publishable State data if making such data available on the Open Data Website would violate statute or regulation (e.g., disclosure that would constitute an unwarranted invasion of personal privacy), endanger the public health, safety or welfare, hinder the operation of government, including criminal and civil investigations, or impose an undue financial, operational or administrative burden on the covered State entity or the State.

G. Protected Data: Any data set, or portion thereof, exempt from disclosure pursuant to the New York State Freedom of Information Law (“FOIL”), or any other law or regulation.

#### **4. Data Coordinator**

ORDA’s President and CEO will designate a Data Coordinator. The Data Coordinator will:

- have authority equivalent to the head of a division or department within ORDA;
- have knowledge of data and resources in use by ORDA; and
- be responsible for ORDA’s compliance with the Executive Order, this policy, and future directives which may be needed to support the open data program.

The Data Coordinator will serve as the liaison between the ITS Open Data Website team and ORDA. In that position, the Data Coordinator will convey to ORDA's Data Owners, as identified herein, in-house counsel, and President/CEO any specific needs of the ITS team who maintain the Open Data Website, to enable them to format or define such data in an optimal manner for publication (such as formatting the data or defining a structure that is optimal for publication). These efforts provide an additional internal control to ensure the dataset is properly evaluated before being provided to the Open Data platform.

## **5. Publication of Data**

Within thirty (30) days of the effective date of this policy, ORDA will create a catalogue of its Publishable State Data and propose a schedule to ITS and the CDO for making its Publishable State Data publicly available. Such schedules will be made publicly available and will further include a schedule for updating the data catalogue as appropriate. ORDA will prioritize data publication in accordance with guidelines as set forth herein.

## **6. Prioritization, Publication, Alteration, and Removal Process**

ORDA shall engage in an internal review process established by the Data Coordinator in accordance with this policy, and shall obtain appropriate internal approvals for the datasets from the President & CEO, as recommended by the Data Owners responsible for the relevant datasets, which it wishes to commit to the Open Data Website. The internal review process will include a means by which to assure increasing data content quality and accuracy, and compliance with all security, privacy, confidentiality laws, rules, and regulations, as well as any Intellectual Property Rights requirements, and status under FOIL (including whether data may lawfully be withheld under the FOIL exemptions).

- i. Prioritization:** In creating a data catalogue, ORDA's Data Coordinator will identify those datasets that are high value, high quality, complete, and in accordance with the definition of "Publishable State Data".

"High value" data, as defined within Executive Order 95, is that which can be used to increase ORDA's accountability and responsiveness, improve public knowledge of ORDA and its operations, further the mission of ORDA, create economic opportunity, or respond to a need or demand identified after public consultation.

When creating a schedule for publication of datasets, a number of factors must be assessed. Prioritizing initial and ongoing publication will entail balancing high value with data quality, data availability, and data readiness.

The amount of time to prepare high quality data can vary significantly, as datasets vary in complexity. Therefore, in prioritizing data for release, ORDA's Data Coordinator must account for sufficient time to: identify data, assess the data (i.e., ensure consistency, timeliness, relevance, completeness, and accuracy of the data), ensure completeness of the metadata and data dictionary, review and obtain all necessary approvals to publish the data, and prepare data, metadata and requisite accompanying documentation for publication.

- ii. **Publication:** To publish a dataset, at a minimum, the Data Coordinator will obtain explicit approval from the individuals listed below, which will be memorialized on an ITS Standardized Approval Form, a copy of which is attached as Exhibit B, to be completed and signed prior to dataset publication. The Data Coordinator may determine whether additional internal approvals and signatures are required and shall include such additional persons in its review and approval for publication process.

The Data Coordinator is responsible for obtaining the following approvals:

- **Data Owner:** ORDA Department Heads and Directors will be the designated Data Owners. The Data Owners will have the greatest familiarity with and knowledge of the dataset and the data it contains, and the purpose for the collection of the data. The Data Owners will know the accuracy and currency of the data and be best able to describe and fill in the metadata elements describing the data. Approval by the Data Owners also validates that ORDA has secured permission for publication and knowledge from the department which is most responsible for the specific data. Each Data Owner may identify individuals within their respective departments and/or units to assist them in the collection of data.
  - **Legal Department:** ORDA's in-house legal counsel will confirm that ORDA has sufficiently reviewed the dataset to ensure its publication complies with privacy and security requirements, intellectual property rights, FOIL responsibilities, this policy, and any other applicable laws, rules and regulations.
  - **President/CEO:** Approval by ORDA's President/CEO demonstrates knowledge within ORDA's leadership that it is providing a dataset to data.ny.gov under full authority. It also serves as the ultimate internal control within ORDA to ensure personnel completed proper evaluations of the datasets.
- iii. **Removal:** To remove a dataset, at a minimum, the Data Coordinator must receive explicit approval from the Data Owners identified hereinabove, ORDA's in-house counsel, and ORDA's President/CEO, which will be memorialized on

an ITS Standardized Removal Form, a copy of which is attached as Exhibit C, to be completed and signed prior to dataset removal. The Data Coordinator may determine additional internal approvals and signatures are required and should include such additional persons in their review and approval process.

- iv. **Alteration:** To alter a dataset, at a minimum, the Data Coordinator will obtain approval from the Data Owners identified hereinabove, which will be memorialized on an ITS Standardized Alteration Form, a copy of which is attached as Exhibit D, to be completed and signed prior to publication of the altered dataset. The Data Coordinator may determine that additional internal approvals and signatures are required and should include such additional persons in their review and approval process.

## 7. Standardization

The Data Coordinator will ensure that the following requirements are met when publishing datasets to the Open Data Website:

- **Metadata** – The Open Data Website adheres to core components of the Dublin Core standard for metadata and uses the current recommended set of elements, which are required to accompany each dataset (Refer to Exhibit A: Metadata Elements for additional details).
- **Descriptive Information** – The Open Data Website requires covered state entities to submit metadata and supplemental documentation with each dataset (e.g., data dictionaries, overview documents, etc.) in order to fully describe and maximize public understanding and interpretation of the data.
- **Domain Categories** – The Open Data Website supports common domain models and allows the Data Coordinator to transform and anchor datasets in a particular domain (Refer to Exhibit A for examples of categories).
- **Catalogue Sharing** – The Open Data Website combines with several data catalogs and explores common, open formats such as Data Catalog Vocabulary (DCAT) or Project Open Data (see <https://resources.data.gov/schemas/dcat-us/v1.1/>)
- **Datasets** – ORDA must provide standardized open data file formats to facilitate automatic processing of the data, making it easily accessible and available in machine-readable format.
- **Open Specifications** – When possible, published datasets must be compatible with open specifications (e.g. KML/KMZ and GeoJSON).
- **Content Formats** – Datasets must be machine-readable and have a clear separation of metadata from the original source data.
- **Tabular Data** – The Open Data Website currently supports the format CSV & TSV: Comma/Tab Separated Values.

- **Geographic Data** – The Open Data Website supports two data formats for geospatial information. The appropriate format is dependent on the specific characteristic of the underlying geographic data.
  - i. Points: All Tabular File Formats or Shapefile
  - ii. Lines: Shapfile
  - iii. Polygons: Shapefile

Point data can be stored in either tabular or Shapefile format. Tabular formatting of points requires either columns for latitude and longitude, or complete address information (house number, street, village/town/city, state, and zip code) that can be geocoded. In contrast, lines and polygons define complex geometric structures that are not easily defined as column attributes. Therefore, Shapefile format is a preferred format for these complex geographic structures.

Each shapefile (at a minimum) should contain the following files:

- i. .shp: Defines the geometry (shapes)
- ii. .dbf: Defines the attribute table
- iii. .prj: Projection, ensures the feature locations are accurately rendered on the map
- iv. .shx: Shape indexing file, for efficient processing

Note: Shapefiles that use projections other than WGS-1984/Web Mercator will not be transformed by the platform and may result in inaccurate representations of location.

Other supported geospatial formats may include Keyhole Markup Language (KML/KMZ).

- **Geocoding** – The Open Data Website supports geocoding services that converts address information into mappable coordinates (Latitude/Longitude)

## 8. Updates to Published Data Sets

ORDA will create an update schedule to maintain data freshness on the Open Data Website. Individual data sets will be evaluated for staticity and schedules and value of data to be updated to the public. All data update schedules will be maintained in the metadata uploaded to the Open Data Website with a minimum update schedule of annually and increased frequency, up to monthly, for more publicly valuable or volatile data sets.

- Replace: All existing records are removed, and new records are inserted.
- Append: New dataset records are inserted to existing records.

## 9. Protected Data

- **Security, Privacy, Regulatory, & Aggregate Data.**

The public release of some data might result in the violation of laws, rules, or regulations. Some data may not be appropriate to release because it can compromise internal ORDA processes, such as procurement. Other data may contain personally identifiable information. Finally, even if detailed data appears innocuous, it may be possible to easily combine it with other public information to reveal sensitive details. Even if there are no legal impediments to publishing the data, releasing the data may have unintended or undesirable effects. The Data Coordinator will confer with ORDA's legal counsel prior to any publication of data on the Open Data Website and exclude any datasets whose publication would cause harm by disclosing ORDA's internal processes, as such data does not constitute "Publishable State Data".

- **Thresholds**

The Health Insurance Portability and Accountability Act ("HIPAA") and its privacy regulations have very exacting requirements for determining whether data have been sufficiently de-identified so as not to compromise individual privacy. The Data Coordinator will confer with ORDA's legal counsel prior to the publication of data on the Open Data Website and exclude any datasets whose publication would cause harm as described in HIPPA's privacy regulations, as such data does not constitute "Publishable State Data".

- **FOIL Applicability**

Under the NYS Public Officers Law, Article 6 (the NYS Freedom of Information Law, or "FOIL"), the presumption is that government records shall be open to the public, unless excludable under a narrow set of specific exemptions including such concerns as invasion of personal privacy, impairment of contractual or collective bargaining negotiations, exposure of protected trade secrets, interference with law enforcement or judicial proceedings, endangering life or safety, jeopardizing the security of state information technology assets, systems and infrastructures, and others. The Data Coordinator will confer with ORDA's FOIL officers and/or legal counsel prior to the publication of data on the Open Data Website and exclude any datasets whose publication would cause the harms described in the FOIL law, as such data does not constitute "Publishable State Data."

## 10. Enforcement Standards and Compliance

ORDA's President and CEO, in accordance with the requirements set forth in Executive Order No. 95, shall have the authority to promulgate reasonable rules and regulations to implement the requirements of this policy.



NEW YORK STATE

# OLYMPIC REGIONAL DEVELOPMENT AUTHORITY

## Procedural Rules for Remote Participation in Board Meetings Effective \_\_\_\_\_

In compliance with Public Officers Law (POL) § 103-a (2) (a), following a public meeting the Olympic Regional Development Authority (“Olympic Authority”), by resolution on June 23, 2023, authorized the use of videoconferencing as described in POL § 103-a.

The following procedures are hereby established to satisfy the requirement of POL § 103-a (2) (b) that any public body which in its discretion wishes to permit its members to participate in meetings by videoconferencing from private locations – under extraordinary circumstances – must establish written procedures governing member attendance.

1. Olympic Authority Board Members shall be physically present at any meeting of the Olympic Authority unless such member is unable to be physically present at one of the designated public meeting locations due to an extraordinary circumstance.
2. For purposes of these procedures, the term “extraordinary circumstance” shall be defined to include a disability, illness, caregiving responsibilities, or any other significant or unexpected factor or event which precludes the member’s physical attendance at such meeting.
3. If a member is unable to be physically present at one of the designated public meeting locations and wishes to participate by videoconferencing from a private location due to extraordinary circumstances, the member must notify the Chair, or if the Chair is unavailable, the Vice-Chair, by no later than four (4) business days prior to the scheduled meeting, to enable the Olympic Authority to revise the public notice for the meeting to indicate that the meeting will be conducted by use of videoconferencing and include directions for public viewing of the meeting. If extraordinary circumstances present themselves on an emergent basis within four (4) days of the date a meeting, the Olympic Authority shall update its notice as soon as practicable to include such information. If it is not practicable for the Olympic Authority to update its notice, the Olympic Authority may, but is not required to, reschedule its meeting, or may move forward with the scheduled meeting and the member who is unable to be physically present shall not be allowed to participate or vote in the meeting.
4. If there is a quorum of members participating at a physical location(s) open to the public, the Olympic Authority may properly convene a meeting. A member who is participating from a remote location that is not open to in-person physical attendance by the public shall not count toward a quorum of the Olympic Authority, but may participate and vote if there is a quorum of members at a physical location(s) open to the public.

5. Except in the case of executive sessions conducted pursuant to POL § 105, and in accordance with its By-Laws, the Olympic Authority shall ensure that its members can be heard, seen, and identified while the meeting is being conducted, including but not limited to any motions, proposals, resolutions, and any other matter formally discussed or voted upon. This shall include the use of first and last name placards physically placed in front of the members or, for members participating by videoconferencing from private locations due to extraordinary circumstances, such members must ensure that their full first and last name appears on their videoconferencing screen.
6. The minutes of the meetings involving videoconferencing based on extraordinary circumstances pursuant to POL § 103-a shall include which, if any, members participated by videoconferencing from a private location due to such extraordinary circumstances.
7. The public notice for the meeting shall inform the public: (i) that extraordinary circumstances videoconferencing may be used, (ii) where the public can view and/or participate in such meeting, (iii) where required documents and records will be posted or available, and (iv) the physical location(s) for the meeting where the public can attend.
8. The Olympic Authority shall provide that each open portion of any meeting conducted using extraordinary circumstances videoconferencing shall be recorded and such recordings posted or linked on the Olympic Authority website within five (5) business days following the meeting, and shall remain so available for a minimum of five (5) years thereafter. Such recordings shall be transcribed upon request.
9. If members of the Olympic Authority are authorized to participate by videoconferencing from a private location due to extraordinary circumstances, the Olympic Authority shall provide the opportunity for members of the public to view such meeting by video.
10. Open meetings of the Olympic Authority conducted using extraordinary circumstances videoconferencing pursuant to the provisions of POL § 103-a shall be broadcast pursuant to the requirements of POL § 103(f) and shall utilize technology to permit access by members of the public with disabilities consistent with the 1990 Americans with Disabilities Act (ADA), as amended, and corresponding guidelines. For the purposes of this guideline, the term “disability” shall have the meaning defined in Executive Law § 292.
11. The in-person participation requirements of POL § 103-a (2) (c) shall not apply during a State disaster emergency declared by the Governor pursuant to Executive Law § 28 or a local state of emergency proclaimed by the chief executive of a county, city, village or town pursuant to Executive Law § 24, if the Olympic

Authority Board determines that the circumstances necessitating the emergency declaration would affect or impair the ability of the Olympic Authority Board to hold an in-person meeting.

12. These procedures shall be conspicuously posted on the Olympic Authority website.



NEW YORK STATE

# OLYMPIC REGIONAL DEVELOPMENT AUTHORITY

## Property Disposition Policy Effective \_\_\_\_\_

### I. SUMMARY

This Policy describes the operative policy, procedures, and instructions regarding the identification of ORDA real and personal property for disposal, and the use, awarding, monitoring, and reporting of contracts for the disposal of real and personal property under the ownership or control of the New York State Olympic Regional Development Authority (“ORDA”).

This Policy further designates a Contracting Officer who is responsible for ORDA’s compliance with and enforcement of this Policy.

This Policy replaces and supersedes the policy dated May 2008.

### II. PURPOSE

The purpose of this policy is to provide guidelines for the inventory and proper designation of real and personal property for disposal, and consistency in the manner in which such disposal process is carried out.

Attached as Exhibit A is a Property Disposition Summary and Checklist for staff to use in implementing this Policy.

### III. BACKGROUND

Under ORDA’s enabling statute at Public Authorities Law § 2611 (3), ORDA is authorized to “acquire, lease, hold and dispose of real and personal property or any interest therein for its corporate purposes”.

Public Authorities Law § 2896 sets forth the duties of public authorities with respect to the disposal of property. This includes the adoption of comprehensive guidelines for contracts for the disposal of its property; the publication at least annually of a list of all of ORDA’s real property, as well as certain information regarding the real and personal property disposed of in the preceding period; and the designation of a Contracting Officer who is responsible for assuring ORDA’s compliance with its property disposal guidelines.

Pursuant to Public Authorities Law § 2897 (3), a public authority such as ORDA may dispose of real or personal property by sale, exchange, or transfer, for cash, credit, or other property, with or without warranty, or on such other terms as the Contracting Officer deems proper. Subject to the exceptions and criteria set forth in the statute, an authority may not dispose of real or personal property in its possession for less than fair market value. Public authorities are also authorized, pursuant to Public Authorities Law

§ 2897 (4), to enter into an agreement with the Office of General Services to dispose of the authority's property when it would be advantageous to the State to do so.

ORDA also manages and controls certain real property that is not subject to its disposal. This includes: land that is within the Forest Preserve on which certain ORDA venues are located, that is occupied and managed by ORDA under a Memorandum of Understanding ("MOU") with the New York State Department of Environmental Conservation ("NYSDEC"); and land within the Town of North Elba Public Parks and Playgrounds District ("Park District"), which is managed in accordance with ORDA's agreement with the Town Board of the Town of North Elba as Trustee for the District ("Park District Agreement").

#### **IV. POLICY**

It is the policy of ORDA to require that the real and personal property in its possession be periodically inventoried to determine which property shall be disposed of, that it produce a written report of such property in accordance with section 2896 of the Public Authorities Law, that it maintain adequate inventory controls and accountability systems for all real and personal property within its possession and control, and that all activities concerning the inventory, identification, disposal and reporting on the real and personal property in ORDA's possession be managed and overseen by a Contracting Officer designated by the ORDA Board of Directors.

It is further the policy of ORDA that the disposition of the real and personal property in its possession comply with section 2897 of the Public Authorities Law, and all other applicable law for contracting for the disposal of property, as well as duly adopted Board policies and rules.

Consistent with the requirements of the Public Authorities Law, this policy will be filed with the New York State Office of the Comptroller and made available to the public on the ORDA website.

##### **A. DEFINITIONS**

For the purposes of this Policy, the following definitions will apply:

1. "Auction" includes but is not limited to the use of a reputable auction site conducted either on-line or at an on-site/in-person auction, as well as the offer of items for public auction on the ORDA website. In all cases of the use of auction for property disposition, the Venue Manager will first obtain the approval of the Contracting Officer after establishing and documenting a minimal acceptable bid for purchase, based on market conditions and best value to the organization. The intent to offer ORDA personal property through auction shall be publicly noticed on the ORDA website and may also be noticed on ORDA official social media marketing sites.

2. “Contracting Officer” means the Vice President for Operations, who shall be appointed by resolution of the Board of Directors to be responsible for the disposition of ORDA property and the implementation of this Policy.

3. “Dispose” or “disposal” means the transfer of title or any other beneficial interest in personal or real property from ORDA to a third party. The terms “dispose” and “disposal” do not include either the rental or lease of ORDA venues for events by third parties, or the rental or lease of ORDA facilities to the US Olympic Committee or other national or international sports organizations.

4. The term “negotiation” includes the exchange of ORDA personal property through a trade-in on the purchase by ORDA of new or used personal property, subject to the process set forth herein for establishing the value of the property to be exchanged, and the approval of the Contracting Officer.

5. “Personal property” means any ORDA asset that is not real property and which has a value in excess of five thousand dollars in value. Surplus computer and other information technology equipment is excepted from the definition of “personal property” under this Policy.

6. “Real property” means real estate to which ORDA holds title in its corporate capacity under the terms of an official deed that has been duly recorded in the office of the clerk of the County in which such property is located.

7. “Transferee” means the person or entity taking possession of real or personal property that has been disposed of by ORDA in accordance with the terms of this Policy.

8. “Venue Managers” means the persons who are responsible for managing each of the ORDA venues, whether in an acting or official capacity, including but not limited to the Olympic Center, the Mt. Van Hoevenberg Nordic Center, Whiteface Mountain Ski Center, Gore Mountain Ski Center, Belleayre Mountain Ski Center, and the Olympic Ski Jumps.

## **B. GUIDELINES**

It is the responsibility of the Contracting Officer and all Venue Managers to ensure that all personal property under their control is properly inventoried, recorded, and reported in accordance with the procedures in this Policy, and that the disposal of any ORDA personal property complies with the procedures and requirements of this Policy.

It is the responsibility of the Contracting Officer to work with the ORDA President & CEO to ensure that all ORDA real property is properly inventoried, recorded and reported in accordance with the procedures in this Policy, and that the disposal of any ORDA real property complies with the procedures and requirements of this Policy, and with all applicable procedures and requirements of New York law.

## **V. PROCEDURE FOR DISPOSING OF PERSONAL PROPERTY**

### **A. Identifying Personal Property For Disposal**

By June 1 of every year, Venue Managers will prepare and submit to the Contracting Officer an inventory of the personal property under their control, and a list of any personal property recommended for disposal. Recommendations for disposal of surplus computer and related equipment is the sole the responsibility of the Information Technology Manager, and Venue Managers shall not dispose of any computer or related equipment.

Prior to including an item of personal property on the list for disposition, Venue Managers must first make a good faith effort to determine that there is no need for the property by other Venue Managers. Any personal property that is relocated from one venue to another must be identified and accounted for on each Venue Manager's annual inventory. In addition, in identifying personal property for disposal Venue Managers shall:

1. Identify and include on the personal property list all personal property which has not been used in the prior fiscal year, is not expected to be used in the coming fiscal year, and in the judgment of the Venue Manager is no longer in ORDA's best interest to continue to possess;
2. Document the date and the manner in which such property was acquired by ORDA, including the source of funding and in particular whether any federal funding was used by ORDA to purchase the personal property.
  - a. If the property that may be subject to disposal is property that was transferred to ORDA from the Town of North Elba, the Contracting Officer shall contact the Town of North Elba for written permission to dispose of such personal property, and to obtain direction as to how to direct any revenue that may be generated as a result.
  - b. If the property that may be subject to disposal is property that was transferred to ORDA from the New York State Department of Environmental Conservation, then in accordance with Interim MOU No. AM12059, after properly identifying the property and accounting for it on the inventory supplied by DEC, the property may be disposed of in accordance with the procedures and requirements of this policy.

c. In the event that federal funding was utilized to purchase any part of personal property that has been identified for disposal, the Contracting Officer shall be provided with a copy of the grant or other agreement under which such funds were provided, and no such property shall be disposed of unless the Contracting Officer has made a determination that such disposal will occur in conformance with the terms of such grant or other agreement.

3. Document any unique qualities attributable to any item of personal property including artistic or historical significance, rarity, or limitations on the available market that may affect either the options for disposition through a competitive bid process or the ability to estimate the property's fair market value;

4. Consider and to the extent practicable quantify or otherwise describe the usable life of the property, its potential use for parts and/or whether the sale of its parts should be considered or should be considered for recycling, the Venue Manager's ability to keep the facility neat and clean, and other relevant factors related to ORDA's interests with respect to that item of personal property and the basis for its inclusion on the personal property disposition list;

5. Document the lack of need for each item of personal property by other Venue Managers including the date and method of communication used to offer the property to them (email, telephone, other), and the responses of the other Venue Managers;

6. Document any other factors considered in recommending the item for disposal;

7. Document the fair market value or, if there is no valuation possible through reference to an active market for similar property, due to either the unique nature of the property or the unique circumstances of the proposed transaction, then in those circumstances the Venue Manager shall obtain an appraised value of the property by an independent appraiser.

*Venue Managers shall obtain the approval of the Contracting Officer prior to having an item appraised, and shall follow the direction of the Contracting Officer in retaining the services of an independent appraiser, and documenting the results of the appraisal.*

**B. Method of Disposal**

1. Competitive bids

a. Unless the criteria in section V.B.2. are met, the Contracting Officer will publicly advertise for bids for personal property that each Venue Manager has identified for disposal in accordance with the

requirements of this Policy. The bid process shall provide sufficient time prior to disposal or contracting for disposal of the property, to allow full and free competition consistent with the value and nature of the property.

b. The advertisement will state the length of time that the bid process will remain open, and the time and place that the bids will be publicly disclosed. Wherever practical, the Contracting Officer should seek a minimum of three (3) written bids.

c. Upon the close of the bid period, the Contracting Officer will determine whether to make an award or whether to reject all bids as not being in the public interest. Any bids that do not equal or exceed the fair market or appraised value of the personal property will be rejected as not being in the public interest. If one or more bids equal or exceed the fair market or appraised value of the property, the Contracting Officer shall consider which responsible bidder's bid, conforming to the invitations for bids, will be most advantageous considering price and other factors such as market conditions and best value to ORDA.

d. The Contracting Officer will promptly and in writing notify the responsible bidder of the award.

2. Negotiation and public auction

a. In lieu of the bid process described in section V.B.1. herein, with the approval of the Contracting Officer, Venue Managers may dispose of personal property through negotiation or public auction if:

i. the fair market or appraised value of the item of personal property is less than or equal to \$15,000.00; or

ii. Bid prices after advertising are not reasonable, either as to all or some part of the property, or have not been arrived at in open competition; or

iii. The personal property involved has qualities separate from the utilitarian purpose of the property such as artistic quality, antiquity, historical significance, rarity, or other quality of similar effect that would tend to increase its value, and the nature, quality and value of such property has been documented by the Venue Manager to the satisfaction of the Contracting Officer.

b. In addition, with the approval of the Contracting Officer, Venue Managers may dispose of personal property through negotiation if:

i. The value of the property exceeds \$15,000.00 and the Venue Manager or Contracting Officer prepares an explanatory statement that is approved by the President and CEO which sets forth: (a) the estimated fair market value or appraised value of the property; (b) the reason(s) why disposition without competitive bidding will be in the best interest of the public and the factors considered in reaching that conclusion; (c) whether the Venue Manager or Contracting Officer propose disposing of the property through sale or exchange; and (d) the criteria that was or will be used to select the entity with whom the negotiated sale or exchange will occur; or

ii. The property is to be sold in such quantity that, if it were disposed of through a competitive bid process as set forth in section V.B.1. herein, would adversely affect the State or local market for such property, the Venue Manager can document this fact to the satisfaction of the Contracting Officer as well as the fact that satisfactory terms of disposal can be obtained by negotiation, and the Venue Manager can document to the satisfaction of the Contracting Officer the criteria that was or will be used to select the entity with whom the negotiated sale will occur; or

iii. The disposal will be to the State or any political subdivision, and the estimated fair market value of the property and other satisfactory terms of disposal are obtained through a negotiation, the terms of which are satisfactory to the Contracting Officer, and the Venue Manager can document to the satisfaction of the Contracting Officer the method by which the State or local political subdivision was contacted and chosen for the purpose of engaging in the negotiation process.

c. With the approval of the Contracting Officer, Venue Managers may dispose of personal property for a negotiated value that is less than fair market value if the disposal of such property is clearly within ORDA's purpose, mission, and authority of its enabling statute and:

i. The entity receiving such property is a government or other public entity, and the terms and conditions of the transfer require that the ownership and use of the asset will remain with the government or other public entity; or

ii. The Contracting Officer has received approval from the ORDA President and CEO to pursue the process set forth in Public Authorities Law § 2897 (7) (a) (iii) for proposing the

transfer of personal property for an amount below its fair market value to other than a governmental entity, to the Governor, the speaker of the assembly, and the temporary president of the senate. In the event such proposed transfer is not denied, the Contracting Officer shall strictly adhere to the criteria and procedure set forth in Public Authorities Law § 2897 (b) for documenting the details of the proposed transfer and, in accordance with the requirements of Public Authorities Law § 2897 (c), obtaining a written determination by the ORDA Board of Directors that there is no reasonable alternative to the proposed below-market transfer that would achieve the same purpose of such transfer.

d. For personal property that is disposed of by negotiation for less than fair market value and which has an appraised or fair market value of over \$15,000.00, the Contracting Officer shall prepare an explanatory statement of the circumstances of the disposal including but not limited to the reason(s) that disposal of the property for less than fair market value will be in the public interest, and the factors or criteria used to reach that conclusion.

## **VI. PROCEDURE FOR DISPOSING OF REAL PROPERTY**

**A.** No Venue Manager shall dispose of or enter into agreements for the disposition of real property in ORDA's possession.

Any proposal for the sale of ORDA real property must be made to the Contracting Officer, who must obtain the approval of the ORDA President & CEO, and the ORDA Board of Directors.

Prior to requesting approval to consider the disposition of ORDA real property, the Contracting Officer shall obtain written verification that ORDA has marketable title to such property, and shall document: (1) the reason(s) that such property should be disposed of; and (2) the reason(s) why such disposal would be in the public interest and in the best interest of ORDA.

*The Contracting Officer shall assure that no part of any real property that is identified for disposal by ORDA, is or consists of land that belongs to: the State of New York as Constitutionally-protected Forest Preserve; the Town of North Elba; the Town of North Creek; the Town of Highmount; or to any other Federal, State, or local government entity.*

**B.** The Contracting Officer shall summarize the information required in VI.A. herein and present it to the President & CEO, with a recommendation for action. If the recommendation is to pursue the sale of the property, then upon the approval of the President & CEO, the Contracting Officer shall obtain an appraisal of the property by an independent appraiser.

C. The President & CEO shall present a resolution to the ORDA Board of Directors, proposing the sale of the ORDA real property, which reflects its marketable title, its appraised value, and the reasons for disposing of the real property, including any benefit to ORDA and/or the public that may result, and any benefit to or potential impact on local government. In the event of any anticipated impact to local government, the President & CEO shall contact local government stakeholders to obtain their input to the proposal. The Contracting Officer shall undertake any necessary review pursuant to the State Environmental Quality Review Act (SEQRA), the Adirondack Park Agency Act, and any other applicable laws and regulations that may be required.

D. **Method of Disposal**

1. **Competitive bids**

a. Unless the criteria in section VI.C. are met, the Contracting Officer will publicly advertise for bids for real property that the President & CEO has identified for disposal. The bid process shall provide sufficient time prior to disposal or contracting for disposal of the property, to allow full and free competition consistent with the value and nature of the property, and shall explicitly put bidders on notice that any final sale, its terms, and the timing of the closing process, must be approved by the ORDA Board of Directors through an officially scheduled board meeting.

b. The advertisement will state the length of time that the bid process will remain open, and the time and place that the bids will be publicly disclosed. Wherever practical, the Contracting Officer should seek a minimum of three (3) written bids.

c. Upon the close of the bid period, the Contracting Officer will determine whether to make an award or whether to reject all bids as not being in the public interest. Any bids that do not equal or exceed the fair market or appraised value of the personal property will be rejected as not being in the public interest. If one or more bids equal or exceed the fair market or appraised value of the property, the Contracting Officer must consider which responsible bidder's bid, conforming to the invitations for bids, will be most advantageous to ORDA considering price and other factors such as market conditions and best value to ORDA.

d. The Contracting Officer will promptly and in writing notify the responsible bidder of the award.

e. The proposed terms of sale shall be authorized through a resolution by the ORDA Board of Directors.

2. **Negotiation**

- a. Subject to the approval of the President & CEO, and a resolution of the ORDA Board of Directors, the Contracting Officer may dispose of real property by negotiation if the disposal of such property is clearly within ORDA's purpose, mission, and authority of its enabling statute and:
  - i. the appraised value of the property is less than or equal to \$100,000.00; or
  - ii. Bid prices after advertising are not reasonable, either as to all or some part of the property, or have not been arrived at in open competition; or
  - iii. Disposition will be made to the State or any political subdivision.
  
- b. Subject to the approval of the President & CEO, and a resolution of the ORDA Board of Directors, the Contracting Officer may negotiate for the sale of real property for below fair market or appraised value, where the value of such property is in excess of \$100,000.00, if the disposal of such property is clearly within ORDA's purpose, mission, and authority of its enabling statute and:
  - i. The entity receiving such property is a government or other public entity, and the terms and conditions of the transfer require that the ownership and use of the asset will remain with the government or other public entity; or
  - ii. The Contracting Officer has received approval from the ORDA President & CEO to pursue the process set forth in Public Authorities Law § 2897 ((7) (a) (iii) for proposing the transfer of real property for an amount below its fair market value to other than a governmental entity, to the Governor, the speaker of the assembly, and the temporary president of the senate. In the event such proposed transfer is not denied, the Contracting Officer shall strictly adhere to the criteria and procedure set forth in Public Authorities Law § 2897 (b) for documenting the details of the proposed transfer and, in accordance with the requirements of Public Authorities Law § 2897 (c), obtaining a written determination by the ORDA Board of Directors that there is no reasonable alternative to the proposed below-market transfer that would achieve the same purpose of such transfer.
  
- e. For real property that is disposed of by negotiation for less than fair market value and which has an appraised value of over

\$100,000.00, the Contracting Officer shall prepare an explanatory statement of the circumstances of the disposal including but not limited to the reason(s) that disposal of the property for less than fair market value will be in the public interest, and the factors or criteria used to reach that conclusion.

## **VII. DOCUMENTATION AND REPORTING**

### **A. Property Transfer Documentation and Disposition of Revenue**

1. The Contracting Officer may accept cash or credit from the transferee for the sale of real or personal property by bid, negotiation, or auction, or may enter into a contract for sale or exchange of such property.

If the sale is for cash or credit, the Contracting Officer shall provide either a receipt or bill of sale to the transferee which clearly describes the property being conveyed and its sale price, which should accurately correspond to any bid documents, and the result of the bid, auction, or negotiation process.

The terms of any contract shall clearly describe the property being conveyed and shall clearly state the value received by ORDA for its sale or exchange, based on the result of any bid, audit, or negotiation process.

Any contract, bill of sale or receipt shall clearly state that the property is being conveyed "as is", that ORDA provides no warranties of any kind in connection with the sale of the property and that the transferee accepts all risk that may accompany the purchase, exchange, use, or disposition of the property, with a disclaimer of all liability to ORDA in connection with any subsequent disposition of the property by the transferee.

2. A deed, bill of sale, lease, or other instrument executed by or on behalf of ORDA (as authorized by the ORDA Board of Directors for the sale or transfer of real property), purporting to transfer title or any other interest in ORDA property, shall be conclusive evidence of compliance with the relevant provisions of the Public Authorities Law insofar as concerns title or other interest of any bona fide transferee who has given valuable consideration for such title or other interest and has not received actual or constructive notice of lack of such compliance prior to the closing or other completion of sale.

3. Revenue generated from the sale of personal property will generally be realized by the Venue that held the property, but all final decisions in this regard shall be made by the Contracting Officer. Revenue generated from the sale of real property will be realized by ORDA as directed by the President & CEO.

4. All revenue from the sale of personal property shall be directed to the Director of Finance who will work with the Contracting Officer or his or her designee to prepare a bill of sale, receipt, or contract of sale or exchange, and to post the revenue realized from the disposal to appropriate Venue's personal property inventory roster.

5. Documentation of the sale of real property shall be in such form as is generally acceptable under NY law and in using such formats and forms as directed by the Contracting Office.

6. Documentation of the exchange of property where no revenue is generated shall be submitted to the Director of Finance along with such other documentation as required by the Director of Finance.

**B. Reporting**

1. By not later than January 1 of each year, the Contracting Officer shall compile an updated inventory of all real property in ORDA's possession, as well as all real property that ORDA rents, leases, manages or otherwise controls. The report shall include a list and full description of all real and personal property disposed of during the preceding year, the price received by ORDA for each item of real or personal property disposed of, and the name of the purchaser of all such property sold by ORDA during such period.

2. Such report shall be published on the ORDA website and copies of the report shall also be delivered to the Comptroller, the Director of the Budget, the Commissioner of General Services, the legislature, and the Authorities Budget Office.

**VIII. SALES BY THE COMMISSIONER OF GENERAL SERVICES**

When it shall be deemed advantageous to the State, as recommended by the Contracting Officer and approved by the President & CEO, ORDA may enter into an agreement with the Commissioner of General Services where under such agreement the Commissioner may dispose of ORDA property under terms and conditions acceptable to ORDA and the Commissioner of General Services. In disposing of any such property of ORDA's, the Commissioner of General Services shall be bound by the terms of Public Authorities Law § 2897 and references to the contracting officer shall be deemed to refer to the Commissioner of General Services.



NEW YORK STATE

# OLYMPIC REGIONAL DEVELOPMENT AUTHORITY

## Service Animal Policy Effective \_\_\_\_\_

The New York State Olympic Regional Development Authority (ORDA) is a State public benefit corporation. Its venues and facilities are places of public accommodation and public facilities as those terms are defined under Federal and State law. As such, ORDA is subject to the requirements of both Title II of the Federal Americans with Disabilities Act (ADA), and the New York State Human Rights Law and Civil Rights Law, with respect to the accommodation of individuals with disabilities. In accordance with the requirements of Federal and State law, therefore, this policy articulates ORDA's practices and procedures for assuring access by individuals with disabilities who are accompanied by service animals, to all ORDA venues, programs, activities, services, and events that are open to members of the general public.

### I. POLICY STATEMENT

It is the policy of ORDA to prohibit discrimination against individuals with disabilities, including individuals with disabilities who are accompanied by service animals. Accordingly, subject to certain limitations as set forth in this policy, any guest with a disability who is assisted by a service animal, and any trainer of a service animal whether or not accompanied by an individual with a disability, shall have access to all public areas and activities of ORDA that are open to the general public.

### II. DEFINITIONS

- A. The term "handler" is defined as: the individual with a disability, as that term is defined under Federal and State law, who uses a service animal to perform work or a task directly related to that individual's disability; a personal care attendant who handles the animal for a person with a disability; or as the trainer of a Service Animal in Training.
- B. The term "service animal" is defined under the ADA and New York State law as any dog that has been individually trained to do work or to perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual or other mental disability.
  - 1. Miniature horses have been added to the definition of the term "service animal" in the ADA regulations. Miniature horses used as service animals must meet the height limit set by the American Miniature Horse

Association. Specifically, they may not exceed thirty-four inches at the withers (measured at the last mane hairs). Miniature horses can range in weight from 150 pounds or less to as much as 300 pounds. Consistent with the criteria in this policy, the size and weight of a miniature horse could affect whether it can be accommodated at an ORDA venue.

2. Ponies and full-size horses do not qualify as service animals under the terms of this policy.
  3. The term “service animal” does not include emotional support animals, or animals that solely provide comfort, well-being or companionship, nor does it encompass any crime deterrent effect that may result from the animal’s presence.
- C. Service Animals in Training (“SATs”) are dogs that are being trained by a trainer identified as an agent or employee of an entity specialized in training dogs or to become service animals, whether or not accompanied by an individual with a disability.

### **III. PROCEDURE**

ORDA staff shall follow the procedures in this policy for the admission of service animals or SATs to all ORDA venues, programs, services, activities, and events. Subject to the limitations, conditions, and criteria set forth in this policy, all venues, activities, programs, services, and events that are open to the general public are open to service animals that accompany an individual with a disability, and to SATs.

ORDA employees shall not require any medical documentation, or any proof of training, licensing, or certification from an individual with a disability who is accompanied by a service animal to an ORDA venue, program, service, activity, or event.

ORDA employees shall not require the payment of a surcharge for a service animal or SAT, even if people accompanied by pets are required to pay fees.

#### **A. General Criteria And Conditions For The Admission Of Service Animals And SATs**

1. The work or task of the service animal must be directly related to the individual’s disability.

For example: assisting individuals who are blind or have low vision with navigation and other tasks; alerting individuals who are deaf or hard of hearing to the presence of people or sounds; providing non-violent protection or rescue work; assisting an individual during a seizure; retrieving items such as medicine or the telephone; providing physical support and assistance with balance and stability to individuals with mobility disabilities; helping persons with psychiatric and neurological disabilities by preventing impulsive or destructive behaviors.

2. ORDA employees may not ask about either the nature or the extent of a person's disability. Two inquiries are permissible by ORDA staff in ascertaining whether an animal accompanying an individual with a disability qualifies as a service animal within the meaning of this policy:
  - a. ORDA employees may ask whether the animal is required because of a disability; and
  - b. ORDA employees may ask what work or task the animal has been trained to perform (but may not ask that the animal demonstrate its ability to perform the work or task).

Except that, these inquiries are not permissible where the nature of the disability is readily apparent, such as a service dog pulling a wheelchair or guiding a person with a visual impairment.
3. The service animal or SAT must be housebroken.
4. The service animal or SAT must be under the control of its handler at all times while in or on property that is owned or under the management of ORDA.
  - a. Unless the handler is unable to do so, or the use of such device interferes with the safe, effective function of the animal's duties, all service animals or SATs shall have a harness, leash, bridle or other type of tether; or
  - b. Where the use of such physical controls would interfere with the safe, effective performance of the service animal's or SAT's work or task, the animal must be under the handler's control through other means (for example, voice commands or hand signals).
5. ORDA employees are not responsible for the care or supervision of a service animal or SAT.

6. ORDA employees may ask that a service animal or SAT be removed by its handler from an ORDA venue, activity, program, service, or event, if:

a. The animal is out of control and the handler does not take or is not able to take effective action to control it.

Except that, if the handler asserts that the animal was provoked or injured, or if ORDA staff otherwise have reason to suspect that provocation or injury has occurred, ORDA staff will seek to determine the facts and, if they determine that provocation or injury has occurred, ORDA staff will take steps to prevent further provocation or injury including asking the provocateur to leave the venue or facility if appropriate and necessary.

b. The animal is not housebroken.

In the event of an incident of a service animal or SAT failing to control its bodily function due to illness or accident, the handler will be asked by ORDA staff to immediately and properly clean up and dispose of any bodily fluids or solid waste, whether inside or outside. At a minimum proper cleanup must include physical removal and proper disposal of any liquid and/or solid wastes, as well as any cleaning materials used.

c. The service animal or SAT causes damage to an ORDA venue or poses a direct threat to the health or safety of others that cannot be reduced or eliminated by reasonable modifications.

The owner of a service animal or SAT is responsible for any costs that result from damages caused to an ORDA venue by a service animal or SAT, including but not limited to the cost of cleanup in the event of illness or accident as described in subsection (b) above. In the case of any incident involving injury while on property owned or managed by ORDA, to a person or another animal by a service animal or SAT, the handler shall make an immediate report to the local police department so that the incident can be properly documented and investigated.

d. In the event that a service animal is excluded from an ORDA venue, program, activity, service, or event under the guidelines set forth in this policy, it is the policy of ORDA to provide the individual with a disability whose service animal has been excluded, with the

opportunity to access the venue and/or participate in the service, program, activity, or event through reasonable accommodations, without the service animal present.

- i. The ORDA staff person who is responsible for admission to the ORDA venue, service, program, activity or event will contact the First Aid/Ski Patrol staff person assigned to the venue.
- ii. The First Aid/Ski Patrol may make a determination as to the accommodation that will be provided for an individual with a disability, in the absence of their service animal, or will contact the head of ORDA Human Resources to make that determination.

## **B. Procedures And Policy For The Admission Of Miniature Horses As Service Animals**

1. It is the policy of ORDA to make reasonable modifications in its policies, practices, and procedures to permit the use of a miniature horse by an individual with a disability if the miniature horse has been individually trained to do work or to perform tasks for the benefit of the individual with a disability.
2. In addition to the general criteria set forth in Section III. A. above, the following criteria will be considered in determining whether ORDA's venues, services, programs, activities and/or events may be reasonably modified to accommodate the admission of a miniature horse as a service animal:
  - a. The type, size, and weight of the miniature horse, and whether ORDA can accommodate these features without fundamentally altering the program, activity, service, or event at an ORDA venue;
  - b. Whether the handler has sufficient control of the miniature horse;
  - c. Whether the miniature horse's presence in a specific facility will compromise legitimate safety requirements necessary for safe operation of the venue, program, activity, service, or event.
3. If ORDA determines that it cannot accommodate the presence of a miniature horse in a venue, program, service, activity, or event, ORDA staff will follow the procedure described in section III (A) (d) above to

provide the individual with a disability with accommodations to access the venue, program, service, activity, or event without the miniature horse present.

#### **IV. VENUE AND SEASON-SPECIFIC PROCEDURES**

The safety requirements described in this section are based on actual risks and are not intended to be discriminatory. In any situation in which a service animal cannot be accommodated at an ORDA venue, or in a specific activity, program, service, or event, in accordance with the procedure described in section III (A) (d) above, ORDA will provide the individual with a disability with the opportunity to access the venue and/or participate in the activity, program, service, or event, without the service animal present.

##### **1. Winter Policy For Service Animals And SATs**

The use of service dogs and SATs on the Belleayre Mountain Gondola, Gore Mountain Gondola, Whiteface Mountain Gondola, and the Olympic Jump Complex Gondola is permitted.

Due to safety considerations and the lack of specialized evacuation equipment in the event of an emergency, the use of miniature horses on ORDA gondolas is prohibited.

ORDA prohibits the use of service animals and SATS on all other lifts. The use of service animals on open ski lifts and on-slope ski terrain directly conflicts with ORDA's safety requirements, and impedes the reasonably safe operation of ORDA's on-slope activities. These safety concerns include the potential for conflicts between service animals and skiers and riders, and are compounded by the large volume of slope and trail use.

##### **2. Summer Policy For Service And SATs**

Service animals and SATs are allowed on the trails at ORDA venues that are designated for hiking, as well as on open roadways. Handlers must obey all permanent or temporary closures of terrain, trails, roads, and any other directives regarding closed or restricted areas within the boundaries of the ORDA venue they are visiting.

The use of service dogs and SATs on the Belleayre Mountain Gondola, Gore Mountain Gondola, Whiteface Mountain Gondola, and the Olympic Jump Complex Gondola is permitted.

Due to safety considerations and the lack of specialized evacuation equipment in the event of an emergency, the use of miniature horses on ORDA gondolas is prohibited.

Due to safety considerations, and to avoid conflicts between the reasonably safe operation of on-slope activities and service animals, ORDA prohibits the use of service animals and SATs on open ski lifts and on mountain biking trails.

## **V. GONDOLA EVACUATION POLICY AND PROCEDURE**

1. In the event of a mechanical or other problem with the gondola at any ORDA Venue, an aerial evacuation of a service dog or SAT and its handler may be required.
2. For the safety of the rescuers: rescuers will start the evacuation of a service dog or SAT from outside of the gondola cabin.
3. The handler or his or her companion, if the handler is accompanied by a companion, will be asked to place the service dog or SAT in a muzzle provided by the rescuer.
4. After confirming that the service animal or SAT is properly secured with a muzzle, the rescuer will enter the cabin. With assistance from the handler (or his or her companion if there is one), the handler will keep the service dog under control and calm while the rescuer places the dog in an evacuation harness and attaches the rescue line. The handler should provide the rescuer with a leash, tether, or other means of assuring control of the service dog or SAT once it is on the ground.
5. The service dog or SAT will be lowered first from the cabin, ahead of the handler.
6. After the service dog or SAT is safely on the ground, rescuers will then facilitate the evacuation of the handler and any companion(s).
7. Service Animal or SAT Equipment: one adjustable rescue harness, five muzzles ranging from extra-small to extra-large.
8. Equipment will be stored in the Base First Aid Facility.



NEW YORK STATE

# OLYMPIC REGIONAL DEVELOPMENT AUTHORITY

## Whistleblower Policy Effective \_\_\_\_\_

### Purpose

It is the policy of the Olympic Regional Development Authority (“ORDA”) to afford certain protections to individuals who in good faith report violations of ORDA’s Code of Ethics or other instances of potential wrongdoing within ORDA. This Whistleblower Policy is applicable to all ORDA employees and its board members.

It prohibits discrimination, harassment and/or retaliation of any kind against anyone who reports in good faith, based upon a reasonable belief: (i) a complaint and/or provides information concerning an actual, potential or suspected act of fraud, misconduct, wrongdoing or other inappropriate behavior by an employee or ORDA business partner as further described in this Policy, or (ii) a complaint and/or provides information regarding any alleged conduct that violates or demonstrates non-compliance with ORDA Policies and Procedures and/or any applicable laws and regulations affecting the organization.

This Whistleblower Policy, and the procedures set forth below, are intended to encourage and enable employees to raise concerns in good faith within ORDA and without fear of retaliation or adverse employment action.

### Definitions

For purposes of this policy, the terms specified below shall be defined as follows:

“Good Faith” – shall mean information that is disclosed whereby the individual disclosing said information reasonably believes such information to be true and reasonably believes that it constitutes potential wrongdoing.

“ORDA” – shall mean the Olympic Regional Development Authority.

“ORDA Employee” – shall mean all staff employed by ORDA including those working full-time, seasonal, part-time, temporary, or contract employees. The term ORDA Employee shall also include, for purposes of this policy, ORDA board members and ORDA Officers.

“Whistleblower” - shall mean any ORDA Employee (as defined herein) who in good faith discloses information concerning acts of wrongdoing, misconduct, malfeasance, or other inappropriate behavior by another ORDA Employee, or concerning ORDA’s investments, travel, acquisition of real or personal property, the disposition of real or personal property, the procurement of goods and services, and/or the business of ORDA itself.

“Wrongdoing” - shall mean any alleged corruption, fraud, criminal or unethical activity, misconduct, waste, conflict of interest, intentional reporting of false or misleading

information, or abuse of authority engaged in by an ORDA Employee (as defined herein) that relates to ORDA.

“Personnel action” – shall mean any action affecting compensation, appointment, promotion, transfer, assignment, reassignment, reinstatement or evaluation of performance.

### **Section I: Reporting Wrongdoing**

Any ORDA Employee who discovers or has knowledge of potential wrongdoing concerning: board members, officers, or employees of ORDA; or a person having business dealings with ORDA; a contractor of ORDA; or concerning ORDA itself, shall report such activity in accordance with the following procedures:

- a) The ORDA Employee shall disclose any information concerning wrongdoing either orally or in a written report to his or her highest level supervisor (i.e., Venue Manager or departmental Director), or to ORDA’s ethics officer, general counsel or human resources representative.
- b) Any ORDA Employee who discovers or has knowledge of wrongdoing shall report such wrongdoing in a prompt and timely manner.
- c) The identity of the whistleblower and the substance of his or her allegations will be kept confidential to the best extent possible.
- d) The individual to whom the potential wrongdoing is reported shall forward the complaint to the Vice President of Operations, Director of Human Resources, or General Counsel, who will then cause an investigation to be conducted in a timely and reasonable manner, which may include referring such information to the Authorities Budget Office or an appropriate law enforcement agency where applicable.
- e) Should an ORDA Employee believe in good faith that disclosing information within ORDA pursuant to Section 1(a) above would likely subject him or her to adverse personnel action or be wholly ineffective, the ORDA Employee may instead disclose the information to the Authorities Budget Office or an appropriate law enforcement agency, if applicable. The toll free number for the Authorities Budget Office (1-800-560-1770) should be used in such circumstances.
- f) Any Employee who knowingly submits false allegations of misconduct, fraud, or other wrongdoing, or otherwise fabricates accusations, is not protected under this policy and is subject to disciplinary action up to and including termination.

### **Section II: No Retaliation or Interference**

No ORDA Employee shall retaliate against any whistleblower for the disclosure of potential wrongdoing, whether through threat, coercion, or abuse of authority; and, no ORDA employee shall interfere with the right of any other ORDA employee by any improper means aimed at deterring disclosure of potential wrongdoing. Further, no ORDA employee shall retaliate against or otherwise interfere with an employee who is

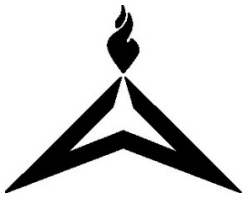
cooperating and/or providing information during the course of an investigation. Any attempts at retaliation or interference are strictly prohibited and:

- a) No ORDA Employee who in good faith discloses potential violations of ORDA's Code of Ethics or other instances of potential wrongdoing, shall suffer harassment, retaliation or adverse personnel action.
- b) All allegations of retaliation against a Whistleblower or interference with an individual seeking to disclose potential wrongdoing will be thoroughly investigated by ORDA.
- c) Any ORDA Employee who retaliates against or attempts to interfere with any individual for having in good faith disclosed potential violations of ORDA's Code of Ethics or other instances of potential wrongdoing is subject to discipline, which may include termination of employment.
- d) Any allegation of retaliation or interference will be taken and treated seriously and irrespective of the outcome of the initial complaint, will be treated as a separate matter.

### **Section III: Other Legal Rights Not Impaired**

The Whistleblower Policy and Procedures set forth herein are not intended to limit, diminish or impair any other rights or remedies that an individual may have under the law with respect to disclosing potential wrongdoing free from retaliation or adverse personnel action.

- a) Specifically, these Whistleblower Policy and Procedures are not intended to limit any rights or remedies that an individual may have under the laws of the State of New York, including but not limited to the following provisions: Civil Service Law § 75-b, Labor Law § 740, State Finance Law § 191 (commonly known as the "False Claims Act"), and Executive Law § 55(1).
- b) With respect to any rights or remedies that an individual may have pursuant to Civil Service Law § 75-b or Labor Law § 740, any employee who wishes to preserve such rights shall prior to disclosing information to a government body, have made a good faith effort to provide the appointing authority or his or her designee the information to be disclosed and shall provide the appointing authority or designee a reasonable time to take appropriate action unless there is imminent and serious danger to public health or safety. (See Civil Service Law § 75-b[2][b]; Labor Law § 740[3]).



NEW YORK STATE

# OLYMPIC REGIONAL DEVELOPMENT AUTHORITY

## Investment of Corporate Funds Policy and Guidelines Effective \_\_\_\_\_

### 1. OVERVIEW OF INVESTMENT POLICY

#### 1.1 Purpose and Scope

This policy sets forth instructions to the officers and staff of the New York State Olympic Regional Development Authority (“ORDA” or the “Authority”) with regard to investments of monies of ORDA and the monitoring and reporting of such investments. The Policy is intended to meet the provisions of the Public Authorities Law (“PAL”) Section 2925, the Office of the State Comptroller’s Investment Guidelines for Public Authorities contained in New York Codes, Rules and Regulations (“NYCRR”) Part 201, Section 201.3, and the provisions of ORDA’s enabling legislation. This policy has been adopted by ORDA’s Board of Directors (“Board”).

#### 1.2 Definitions

“Authority” or “ORDA” means the New York State Olympic Regional Development Authority, a public benefit corporation of the State of New York, established pursuant to Article 8, Title 28 of PAL.

“Board” means ORDA’s Board of Directors.

“Eligible Banking Institution” means any commercial bank or financial institution whose long-term unsecured debt securities are rated A- or better by S&P, A3 or better by Moody’s, or A- or better by Fitch, and having its principal office within the State, as authorized by the Board.

“Investment Funds” means monies and financial resources available for investment by ORDA.

“Investment Securities” means any or all the investment obligations described in Section 2.2 hereof.

“PAL” means Public Authorities Law.

“State” means the State of New York.

#### 1.3 Management of Investment Program

##### 1.3.1 Delegation of Investment Authority

The responsibility for implementing the investment program is delegated to ORDA's Office of Finance.

Investments shall be made in accordance with this policy. ORDA's Office of Finance is responsible for initiating and reviewing an investment program for the Authority and for doing so with the judgment, care, skill, prudence and diligence under the circumstances then prevailing that a knowledgeable and prudent investor acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims. These responsibilities shall include the evaluation of the investment program by monitoring the system of internal controls, verifying relevant matters related to the securities purchased or held as collateral at least semiannually and on an unscheduled basis, determining that the investment results are consistent with the Board's objectives and reviewing any independent audits of the investment program. All ORDA staff participating in the investment process shall act responsibly as custodians of the public trust and shall avoid any transaction that might impair public confidence in ORDA's ability to effectively fulfill its responsibilities. All participants in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions.

### **1.3.2 Annual Review and Approval**

ORDA staff involved in the investment process shall review the Investment Policy on an annual basis, or more frequently as required, and shall submit the Investment Policy to the Authority's Executive Committee and Board no less frequently than annually for review and approval as required by the PAL.

## **2. INVESTMENT MANAGEMENT OBJECTIVES AND PERMITTED INVESTMENT**

### **2.1 Investment Objectives**

ORDA's primary investment objectives, listed in order of importance, are:

1. To conform with all applicable legal and regulatory requirements;
2. To adequately safeguard investment principal;
3. To provide for portfolio liquidity to meet the needs for which the funds are being held;
4. To earn reasonable rates of return, subject to any applicable requirements imposed by Federal Tax Law; and
5. Maintain procedures that allow for diversification of investment firms used by ORDA and to ensure opportunity for participation by minority and women owned investment firms in investment activity by ORDA and in the activities of investment firms engaged by ORDA to manage or invest funds under the supervision of ORDA.

### **2.2 Permitted Investments**

ORDA, subject to the requirements of Section 3.6 of this policy, may deposit monies with Eligible Banking Institutions, as separately authorized by the Board. Additionally, investments shall be limited to the following types of securities (“Permitted Investments”):

1. **U.S. Treasury & Government Guaranteed** – U.S. Treasury obligations, and obligations the principal and interest of which are backed or guaranteed by the full faith and credit of the U.S. Government.
2. **Federal Agency/GSE** – Debt obligations, participations or other instruments issued or fully guaranteed by any U.S. Federal agency, instrumentality or government-sponsored enterprise (GSE).
3. **Corporates and Other Debt Obligations** – U.S. dollar denominated corporate notes, bonds or other debt obligations issued or guaranteed by a U.S. or foreign corporation, financial institution, non-profit, or other entity.
4. **Municipals** – Obligations issued or guaranteed by any state, territory or possession of the United States, political subdivision, public corporation, authority, agency board, instrumentality or other unit of local government of any U.S. state or territory.
5. **Collateralized Investment Agreements** – Investment agreements or guaranteed investment contract with any financial institution that guarantees repayment of principal and a fixed or floating interest rate for a predetermined period.
6. **Negotiable Bank Deposit Obligations** – Negotiable bank certificates of deposit, deposit notes or other deposit obligations issued by a nationally or state-chartered bank, credit union or savings association, or by a federally or state-licensed branch of a foreign bank or financial institution. No new securities will be purchased in this sector.
7. **Commercial Paper** – U.S. dollar denominated commercial paper issued or guaranteed by a U.S. or foreign corporation, company, financial institution, trust or other entity, including both unsecured debt and asset-backed programs.
8. **Bankers’ Acceptances** – Bankers’ acceptances issued, drawn on, or guaranteed by a U.S. bank or U.S. branch of a foreign bank.
9. **Insured Bank Deposits** - Interest bearing time certificates of deposit, savings accounts or deposit accounts fully insured by the Federal Deposit Insurance Corporation (FDIC).
10. **Money Market Mutual Funds** – Shares in open-end and no-load money market mutual funds, provided such funds are registered under the Investment Company Act of 1940 and operate in accordance with Rule 2a-7.
11. **Repurchase Agreements** – Permitted provided certain conditions are met:
  - a. Repurchase agreements must only be purchased from banks or trust companies authorized to do business in the State of New York or from broker dealers on the Federal Reserve Bank of New York’s list of primary government securities dealers.
  - b. Repurchase agreements shall have a term not to exceed ninety (90) days. Agreements which are “open” (continuing in nature) shall not

- be made.
- c. ORDA will execute a master repurchase agreement with each broker dealer which outlines the basic rights of both buyer and seller including:
    - i. The events of default which would permit the purchaser and/or seller to liquidate or purchase the underlying securities;
    - ii. The relationship between parties to the agreement, which should ordinarily be purchaser and seller;
    - iii. A requirement that there be a written contract with the custodial bank outlining the responsibilities of the bank and the parties of the agreement. Such an agreement shall provide, among other things, that the custodial bank will not make payment for the securities until the bank actually receives them and that the custodial bank takes possession of the securities exclusively for ORDA and that any claims of the custodial bank are subordinate to those of the Authority;
    - iv. Procedures which ensure that ORDA obtains a perfected security interest in the securities which are the subject of the agreement;
    - v. The method of computing margin maintenance requirements and providing for timely correction of margin deficiencies or excesses. Specific guidelines regarding margin maintenance should be established, taking in consideration:
      - the size and terms of the transaction;
      - the type of underlying security;
      - the maturity of the underlying security;
      - the capitalization, financial status and type of purchaser and/or seller; and
      - the method by which additional margin will be maintained; and
    - vi. Circumstances, if any, under which substitution of securities subject to the agreement shall be permitted.
  - d. ORDA or its custodian must take possession of the securities being purchased by physical delivery or book entry. The custodian must not be the same party that is selling the securities to the Authority.
  - e. A custodial bank must be a member of the Federal Reserve Bank or maintain accounts with member banks to accomplish book-entry transfer of securities to the credit of ORDA. Transfer of securities, whether by book entry or physical delivery, must be confirmed in writing to ORDA by the custodial bank.
  - f. The market value of the securities purchased under a repurchase transaction must be equal to or in excess of the purchase price. The securities must be monitored and additional securities required if market fluctuations cause the market value of the purchased securities to become less than the purchase price.

### **2.3 Authorization of Investments**

In the final analysis, all Permitted Investment transactions made by the Authority

must be reviewed, approved, and authorized by ORDA's President/CEO.

## **2.4 Diversification**

ORDA shall diversify its deposits and investments by financial institution, by investment instrument, and by maturity scheduling. ORDA's Office of Finance shall establish appropriate limits for the amount of investments which can be made with each financial institution or dealer, and shall evaluate this listing at least annually.

## **3. OPERATING PARAMETERS AND CONTROLS**

ORDA has developed the following investment management controls to ensure that its assets are protected against loss, theft and misuse.

### **3.1 Authorized Officers and Employees**

The process of initiating and reviewing Permitted Investment transactions must be documented by either the Director of Finance, or ORDA's investment advisor under the supervision of the Director of Finance. In accordance with the provisions of Section 2.3 of this Investment Policy, final investment decisions on behalf of the Authority shall be made only by ORDA's President/CEO.

### **3.2 Internal Controls**

ORDA's Office of Finance is responsible for establishing and maintaining an internal control structure designed to ensure that investments are made in accordance with this policy; are protected from loss, theft or misuse; and that transactions are recorded properly.

The organizational structure of ORDA's Office of Finance will provide for a separation of duties between the authorization of investment transactions, the execution of investment transactions and the accounting for investments.

### **3.3 Competitive Selection**

For the purchase of investments over a certain threshold dollar amount as the Office of Finance may specify in writing, ORDA shall use competitive quotations. For each transaction equal to or less than said threshold dollar amount as the Office of Finance may specify in writing, ORDA may use either competitive quotations or negotiated prices. The foregoing shall not apply to the purchase of government securities at initial auction or upon initial offering. A minimum of three quotes shall be obtained and documented from Dealers and/or Banks, except in the purchase of government securities at their initial auction or upon initial offering, and the most favorable quote accepted.

To the extent that ORDA invests in a Securities and Exchange Commission (SEC) registered mutual fund or exchange traded fund whose investment objectives and policies are consistent with this Investment Policy, the selection of a no-load, open-end fund constitutes a competitive selection.

### **3.4 Annual Investment Audit**

An annual independent audit of all investments will be performed by external auditors. ORDA shall comply with all legal and regulatory requirements, including those mandated by the PAL, the NYCRR, and this Investment Policy. The Annual Investment Audit shall:

- Determine whether investment assets are adequately safeguarded; adequate accounts and records are maintained which accurately reflect all transactions and report on the disposition of ORDA's investment assets; and a system of adequate internal controls is maintained;
- Determine whether ORDA has complied with applicable laws, regulations, the State Comptroller's investment guideline requirements, such public authority accounting directives as may be issued by the State Comptroller, and the Investment Policy; and
- Be designed to the extent practical to satisfy both the common interest of ORDA and the public officials accountable to others.

The results of the Annual Investment Audit shall be set forth in a report submitted to the President & CEO, and to ORDA's Board (the "Annual Investment Audit Report") which shall include without limitation:

- A description of the scope and objectives of the audit;
- A statement that the audit was made in accordance with generally accepted government auditing standards;
- A description of any material weakness found in the internal controls;
- A description of any non-compliance with ORDA's own investment policies as well as applicable laws, regulations, the State Comptroller's investment guideline requirements, and such public authority accounting directives as may be issued by the State Comptroller;
- A statement of positive assurance of compliance on the items tested;
- A statement on any other material deficiency or reportable condition as defined by Governmental Auditing Standards identified during the audit not covered above; and
- Recommendations, if any, with respect to amendment of this Investment Policy.

The Annual Investment Audit Report shall be filed within ninety (90) days after the close of the Authority's fiscal year with the Office of Budget and Policy Analysis of the Office of the State Comptroller.

### **3.5 Written Contracts and Confirmations**

A written contract and/or a written confirmation shall be required for each investment transaction. However, ORDA shall not be required to enter into a formal written contract if the Authority's oral instructions to its broker, dealer, agent, investment manager/advisor, or custodian with respect to such transactions are

confirmed in writing or by written confirmation at the earliest practicable moment.

### **3.6 Safekeeping and Custody**

All Investment Securities purchased by ORDA or held as collateral on deposits or investments shall be held by a third-party custodian who may not otherwise be a party to the investment transaction and with whom the Authority has a written custodial agreement. All securities shall be held in the name of the Authority and will be free and clear of any lien.

All investment transactions will be conducted on a delivery-vs.-payment basis. Payment for investments shall be made only upon receipt by the custodian of the physical security, or in the case of securities in book-entry form, when credited for the custodian's account, which shall be segregated for ORDA's sole use. The custodian shall issue a safekeeping receipt to ORDA listing the specific instrument, rate, maturity and other pertinent information. Monthly, the custodian will also provide reports listing all securities held for the Authority, the book value of holdings, and the market value as of month-end.

The custodian may act on oral instructions from ORDA's President/CEO, which shall then be confirmed in writing, within one business day, by the President/CEO.

Representatives of the custodian responsible for, or in any manner involved with, the safekeeping and custody process of the Authority shall be bonded in such a fashion as to protect ORDA from losses from malfeasance and misfeasance. If required by the Director of Finance, appropriate Authority Officials may also be bonded in such a fashion.

All demand deposits, time deposits, and certificates of deposit shall be collateralized for amounts over and above Federal Deposit Insurance Corporation coverage. All collateral shall be Permitted Investments as set out in Section 2. There shall be a written custodial agreement that, among other things, specifies the circumstances under which collateral may be substituted. ORDA should not accept a pledge of a proportionate interest in a pool of collateral. The market value and accrued interest of collateral should, at least, equal the value of the investment and any accrued interest at all times. The recorded value of collateral backing any investment should be compared with current market values (mark-to-market) at the time of the initial investment and monthly thereafter to be certain that it continues to be at least equal to the value of the investment plus accrued interest. The mark-to-market reviews should use "bid" prices from a constant source. Negotiable Bank Deposit Obligations as defined in section 2.2 of this policy are exempt from these collateral requirements.

### **3.7 Notification Concerning Violations of Investment Policy**

If this Investment Policy is violated, the President & CEO shall be informed immediately and advised of any corrective action that should be taken, as well as the implication of such action.

## **4. QUALIFIED FINANCIAL INSTITUTIONS**

#### **4.1 Qualifications for Brokers, Dealers and Agents**

The Office of Finance and/or ORDA's investment manager shall identify broker/dealers that are approved for investment purposes ("Qualified Institutions") and maintain a list of such approved dealers. Only firms meeting the following requirements will be eligible to serve as Qualified Institutions:

- "Primary" dealers and regional dealers that qualify under SEC Rule 15C3-1 (uniform net capital rule);
- Registered as a dealer under the Securities Exchange Act of 1934;
- Member in good standing of the Financial Industry Regulatory Authority (FINRA);
- Registered to sell securities in the State; and
- The firm and assigned broker have been engaged in the business of effecting transactions in U.S. government and agency obligations for at least five (5) years.

When selecting trading partners, ORDA will also consider the firm's quality, size, reliability, the Authority's prior experience with the firm, the firm's level of expertise and prior experience with respect to the contemplated transactions.

#### **4.2 Qualifications for Investment Advisors/Managers**

For the purpose of rendering investment management/advisory services to the Authority, ORDA may qualify any bank or trust company organized under the laws of any state of the United States of America, any national banking association, and any partnership, corporation, or person which is:

- Authorized to do business in the State as an investment manager/advisor; and
- Registered with the SEC under the Investment Advisor Act of 1940 or exempt from registration.

ORDA shall consider the firm's capitalization, quality, size and reliability, the Authority's prior experience with the firm, the firm's level of expertise and prior experience with respect to the contemplated transaction.

Agreements with investment advisors may not provide for the delegation of any duties or responsibilities of ORDA's officers or staff that involve the exercise of judgment or discretion to the advisor. ORDA's Department of Finance or other officer to whom the investment function has been delegated must carefully review recommendations made by an advisor to determine their propriety. Investment advisory services shall be procured pursuant to ORDA's competitive procurement process.

#### **4.3 Qualifications for Custodial Banks**

To be eligible to hold Investment Securities purchased by ORDA or collateral

securing its investments, a custodial bank shall be a member bank of the Federal Reserve System or maintain accounts with member banks of the Federal Reserve System to accomplish book-entry transfer of Investment Securities to the credit of the Authority. The custodian should not be the same party that is selling the Investment Securities. To be eligible to perform custodial services, the Director of Finance, or his/her designee, must review the annual financial statements and credit ratings of the proposed custodian bank and based upon such review, affirmatively find that the proposed custodial bank is financially sound. Such determinations of creditworthiness shall be undertaken on a periodic basis as determined by the Director of Finance.

#### **4.4 Ongoing Disclosure**

All brokers, dealers and other financial institutions described in sections 4.1, 4.2, and 4.3 shall be provided with current copies of the Authority's Investment Policy. A current audited financial statement is required to be on file for each financial institution and broker/dealer with which the Authority has investment transactions.

#### **4.5 Affirmative Action**

Article 15-A of the Executive Law and 9 NYCRR Part 4.21 regarding affirmative action shall apply with respect to ORDA's investment activities. The Authority shall seek to use minority and women- owned financial firms in the conduct of ORDA's investment activities.

### **5. ANNUAL REPORTING**

Annually, ORDA shall prepare and approve an Investment Report in accordance with the provisions of PAL Section 2925 (6) which shall include the following:

1. This Investment Policy, including a list of resolutions authorizing the issuance of a series of bonds, or any supplement thereto, containing additional or different permitted investments;
2. Amendments to this Investment Policy since the last Investment Report;
3. An explanation of this Investment Policy and amendments;
4. The results of the annual independent audit;
5. The investment income record of ORDA; and
6. A list of total fees, commissions or other charges paid to each investment banker, broker, dealer or other investment advisor, including trustee and custodian fees, since the last Investment Report.

The Annual Investment Report shall be submitted to the Division of the Budget and copies thereof shall be submitted to the Office of the State Comptroller, the Senate Finance Committee and the Assembly Ways and Means Committee. Copies of the Annual Investment Report shall also be made available to the public upon reasonable request.

The Office of Finance shall annually provide the Board with a list of banks, trust companies and broker-dealers with which ORDA is authorized to make investments and with which ORDA has made investments during the preceding

year. The Board shall also annually receive a list showing the names of all institutions authorized to serve as trustees and custodians for ORDA and any trustees and custodians considered for new business.

The Office of Finance will provide to ORDA's President & CEO and the Board, a quarterly report detailing any new investments, the inventory of existing investments and the selection of brokers, agents or dealers.

## **6. BANK AUTHORIZATION**

The President & CEO or any authorized designees ("Authorized Persons") are authorized to deposit any ORDA funds in any commercial bank or financial institution whose long-term deposits are rated A- or better by Standard & Poor's Corporation, A3 or better by Moody's Investor Service, Inc. or A- or better by Fitch, Inc. (each such institution referred to herein as the "Bank"), either at its head office or at any of its branches.

Any ORDA funds deposited in the Bank may be subject to withdrawal or charge at any time and from time to time upon checks, notes, drafts, bills of exchange, acceptances, undertakings, wire transfers or other instruments or orders for the payment of money when made, signed, drawn, accepted or endorsed, as applicable, on behalf of the Authority in accordance with the Financial Policies and Procedures of the Authority and its service provider by Authorized Persons.



NEW YORK STATE

# OLYMPIC REGIONAL DEVELOPMENT AUTHORITY

## 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 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:

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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.

- 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;
  - 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.
- 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
    - 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://www.nyscadv.org/find-help/program-directory.html>

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;

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<sup>2</sup> Labor Law § 196-b (4).

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.
- 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.

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<sup>3</sup> Penal Law § 215.14

- 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 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

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

<sup>5</sup> NYS Insurance Law § 2612

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.

## **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. Disciplinary 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.

## Revised Section IV.F. to Management Confidential Employee Handbook

### Holidays

The Olympic Authority grants twelve (12) paid holidays per year to each employee as follows:

1. New Years Day
2. Martin Luther King Day
3. Presidents Day
4. Memorial Day
5. Juneteenth
6. Independence Day
7. Labor Day
8. Indigenous Peoples Day
9. Veterans Day
10. Thanksgiving Day
11. Christmas Day
12. Each MC Employee's Birthday

For those employees whose normal work schedule is from Monday through Friday, designated holidays falling on a Saturday shall be observed on the preceding Friday, and holidays falling on a Sunday shall be observed on the following Monday.

For those employees with a non-traditional schedule (pass days scheduled on days other than Saturday and Sunday), designated holidays falling on a pass day shall be observed the first scheduled day immediately after the pass day. **In such situations, the employee's supervisor must designate the pass day on the employee's timecard for that pay period.**

The Olympic Authority encourages its MC staff to take the day off on designated holidays. However, the Olympic Authority also recognizes that, especially during the winter season (generally November through April of each year), the needs of the organization may require that MC employees be available to work on a designated holiday. Therefore, effective October 1, 2024, for any MC employee who works on a designated holiday, upon their supervisor's approval of the employee's timecard the designated holiday will be recorded in the employee's leave accruals as a comp holiday, which may then be used as leave time on another date within the parameters set forth below.

**With the exception of comp holiday leave time resulting from an employee's birthday, comp**

**holiday leave time will begin on October 1 of each year and must be used by September 30 of the following year, or the employee will lose the time.** Comp holiday time will not accrue from year to year and no employee will be paid for comp holiday time if they do not use that leave time by the expiration date of September 30.

**For comp holiday leave time resulting from an employee having worked on their birthday,** the employee will have one year from the date of their birthday to use that leave time. The comp holiday time will not accrue from year to year and no employee will be paid for that time if it is not used by that one year date.

As is true with all leave time, the use of all comp holiday time is subject to the approval of the employee's supervisor, based on the needs of the organization. However, supervisors are expected to work cooperatively with their staff to enable them to schedule and take time off, to ensure that no employee is prevented from using leave time that will not roll over into future years.



**NEW YORK STATE OLYMPIC REGIONAL DEVELOPMENT AUTHORITY**

**Resolution #538**

**RESOLUTION APPROVING OLYMPIC REGIONAL DEVELOPMENT AUTHORITY  
ANNUAL REPORT**

At a meeting of the Board of Directors of the Olympic Regional Development Authority (“Olympic Authority”) held on June 26, 2024, the Chair offered the following resolution:

**WHEREAS**, pursuant to Public Authorities Law §§ 2621 and 2800(1)(a), the Olympic Regional Development Authority is required, within ninety (90) days after the end of its fiscal year, to submit to various executive, legislative and local officials, a complete and detailed Annual Report setting forth, *inter alia*, (1) its operations and accomplishments, and (2) its receipts and expenditures during such fiscal year; and

**WHEREAS**, annexed hereto and made a part hereof as if fully set forth herein is the Olympic Authority’s proposed Annual Report (“Annual Report”); and

**WHEREAS**, at a duly called meeting of the Executive Committee held on June 11, 2024, the Executive Committee recommended the approval of the Annual Report by the Board of Directors, based on the Committee’s thorough review and consideration of such Report; and

**WHEREAS**, the Board is in receipt of the Annual Report; and

**WHEREAS**, the Board has been provided with ample opportunity to review the contents of the Annual Report and has been provided with an opportunity to make inquiries and/or comments regarding its contents; and

**WHEREAS**, the Board being satisfied with the contents of the Annual Report;

**NOW, THEREFORE, BE IT RESOLVED** that the Board hereby approves the Annual Report, and further directs that the Annual Report be forwarded to the proper legislative, executive, and local officials in accordance with the requirements of Public Authorities Law §§ 2621 and 2800(1)(a).

**SO RESOLVED,**

MOVED BY: \_\_\_\_\_

SECONDED BY: \_\_\_\_\_

and

ADOPTED BY the following vote:

In Favor:

Excused/Abstained:

Against:

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

The above Resolution #538 was duly passed by the Board of Directors on June 26, 2024.

Signature \_\_\_\_\_

Title: Secretary to the Board of Directors

Sworn to before me this \_\_\_\_ day of June, 2024.

\_\_\_\_\_  
Notary Public, State of New York



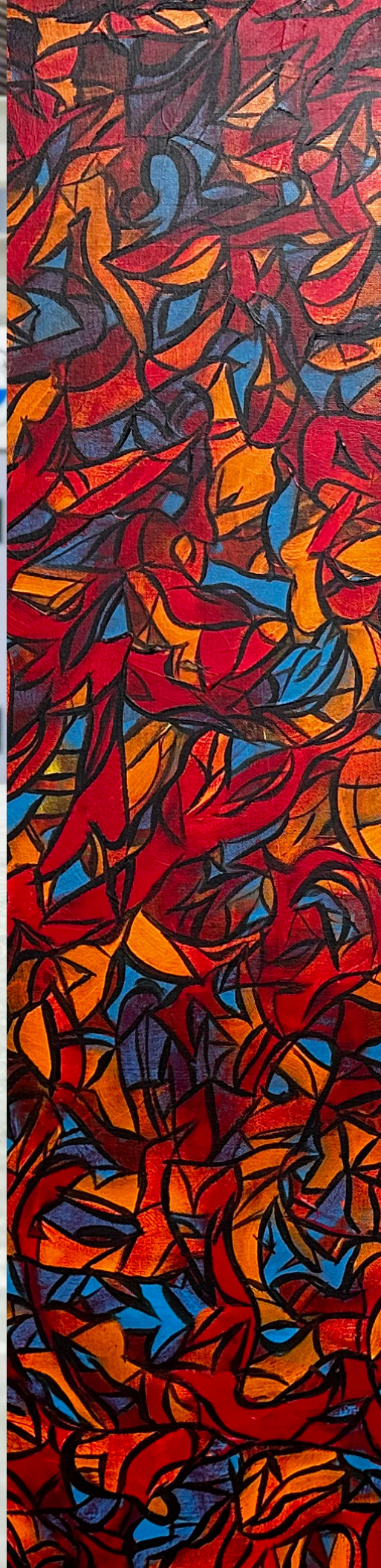
Global Leadership in Sustainable Sport & Recreation

# BOLD NEW ERA





USA 2-man bobsled team, IBSF Lake Placid World Cup Bobsled and Skeleton



The illustrations on the facing page and on page 4 are parts of artwork created by Roald Bradstock, English javelin thrower and former world record holder who competed in the 1984 and 1988 Olympics. He is currently Executive Director of the Art of the Olympians with whom the Olympic Authority announced a new partnership in October, 2023 to elevate art and engage visitors through displays of paintings, photos, sculptures, and other forms of art across the Lake Placid Legacy Sites.

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## FROM THE CHAIR

This past year has been a memorable one for the Olympic Authority. With our federal, state and local partners, we hosted in January 2023 the Lake Placid FISU World University Games (FISU Games), the largest winter sports competition held in New York State since the 1980 Olympic Winter Games. This would not have been possible without significant investment by New York State in upgrades and improvements to the Olympic Authority's venues.

This was just the beginning. The Olympic Authority has entered a bold new era, attracting and hosting numerous national and international events. Three weeks after the FISU Games, the Olympic Authority hosted the FIS Ski Jumping World Cup that brought 8,000 enthusiastic spectators over two days. This fall, the Olympic Authority will host the UCI Mountain Bike World Series at Mt Van Hoevenberg, bringing hundreds of riders and thousands of spectators to the region. While bringing these events to the region has a huge positive economic impact, the Olympic Authority is also working hard to improve the overall visitor experience at all venues, from alpine skiing at our three ski centers to public skating at the Olympic Center to thrilling rides on our Cliffside Coaster and Sky Flyer Zipline. We're also working closely with our partner, the U.S. Olympic and Paralympic Committee (USOPC), to provide world class training facilities for aspiring Olympic athletes. Furthermore, with the USOPC's support, the Olympic Authority has offered to host the sliding events for the Milano Cortina 2026 Olympic Winter Games if the track in Italy is not ready for test events and competition.

We at the Olympic Authority are proud of how far we've come. Thanks to our partnerships with the Adirondack and Catskill communities, we are attracting world class events and providing exceptional guest experiences. And a special thanks to Governor Hochul and the Legislature for ensuring our venues will continue to serve as an international example of sustainable recreation and a valuable public asset for years to come.

**Joe Martens**  
Olympic Authority Board Chair



## FROM THE PRESIDENT & CEO

I joined the Olympic Authority as President & CEO in September 2023, and am incredibly honored to be part of such a talented and committed team. I understood this organization's amazing venues and its athlete and event programming, but getting to know and work with the staff who are at the heart of the Olympic Authority has been my favorite part of this role. Collaborating with the venues in planning and executing projects with the goal of improving our guest experience is a tremendously rewarding experience.

Each day, we do the ongoing work of taking care of our venues, engaging athletes of all levels, welcoming our visitors, and enhancing economic results in the regions we serve. I am excited to lead the Olympic Authority into the next chapter, one that will be targeted at sustainability, process improvements, and thoughtful action.

I would like to thank the Olympic Authority Board of Directors for its leadership, the staff for their care and expertise, and our regional communities for their insight. I am excited to work with all of the Olympic Authority's stakeholders, as everyone is a valuable component to what makes the Catskill and Adirondack Parks continue to be such incredible places in New York State. Together, we will shape a successful path forward, maintaining and improving our assets while honoring our environment.

Each of our six venues has a unique character and dedicated staff along with a diverse mix of programs, activities, and events that make every visit to them truly memorable. We share more information about them within this report. I hope to see you at all of our venues in the year ahead.

**Sincerely,**  
**Ashley Walden**  
Olympic Authority President & CEO



# A TIMELINE OF PROGRESS

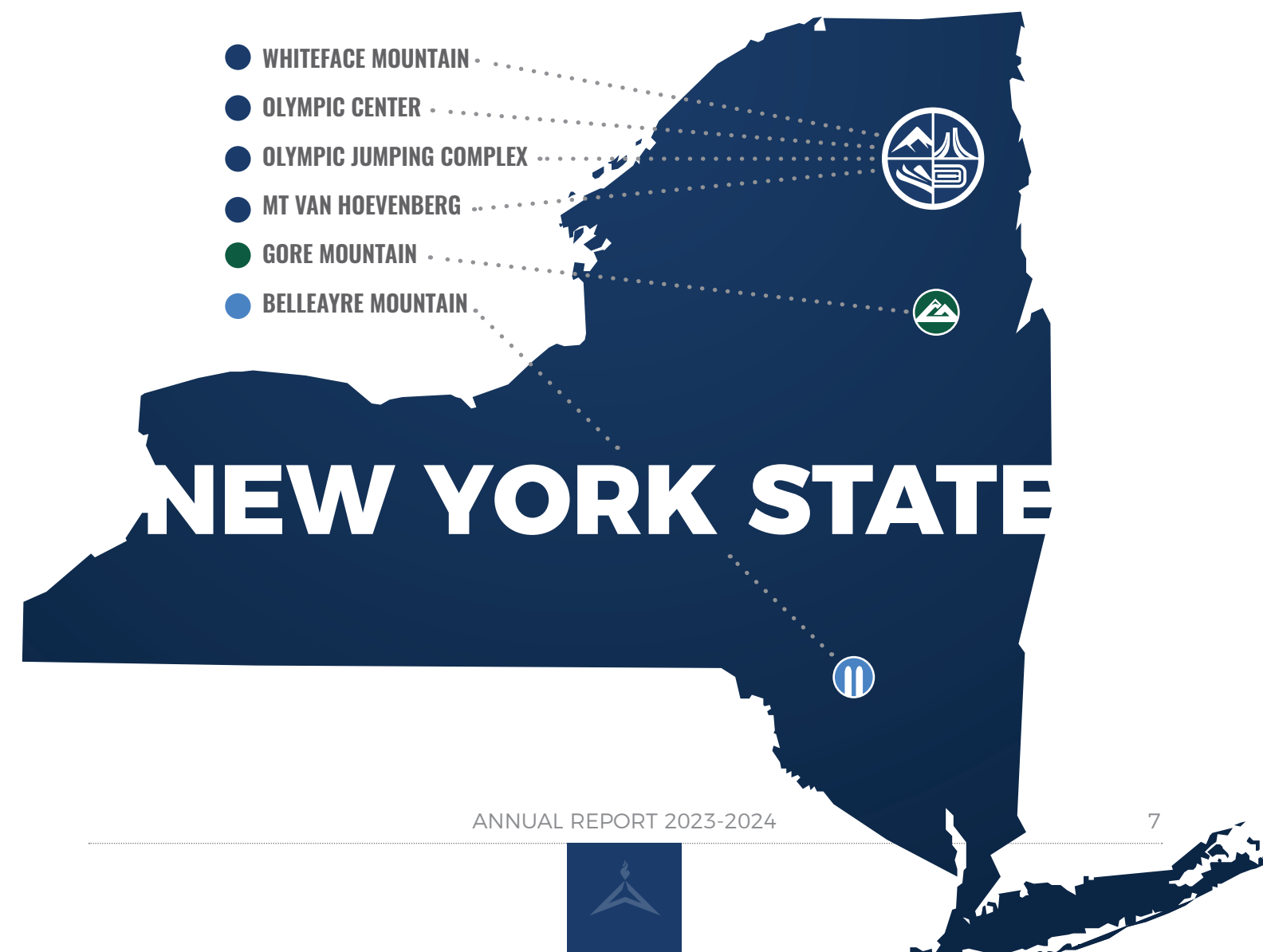


The Olympic Authority means many things to many people. Established in 1981 by the New York State legislature as a long-term solution to protecting public investment in the facilities used in the 1980 Olympic Winter Games, this entity's mission and mandate are multi-faceted.

With its origins firmly in winter sport, changing visitor and cultural expectations drove an expanding array of four-season recreation opportunities. At the same time, evolving international sport standards necessitated major venue upgrades. With the support of New York State, the Olympic Authority has successfully elevated its position as a global leader in sustainable sport and recreation and in the process, become an increasingly powerful economic engine for local communities and the entire state.

The Olympic Authority venues of today have recaptured a worldwide leadership role – winter and summer – in athlete training and development, competition, recreation, and tourism. Furthermore, advancements across all venues make possible an expansive range of benefits to local communities. A range of youth development programming, adult, and adaptive recreational opportunities all serve to maximize possibilities for every interested person at every age and level of ability.

In this vibrant new era, the Olympic Authority sustains the vital legacy of its venues, ensures a valuable return on investment, prioritizes environmental preservation, and makes a difference in the lives of people in its communities, across the state, and around the world.





# OLYMPIC CENTER

Long known as the headquarters for the region's remarkable history, the Olympic Center is a recently revitalized sport and entertainment venue breathing new life into downtown Lake Placid.

Efficient, comfortable, and aesthetically pleasing, the Olympic Center is home to such vital elements of Lake Placid's Olympic legacy as the 1980 Herb Brooks Arena, the 1932 Jack Shea Arena, the USA rink, and the James C. Sheffield Speed Skating Oval. The Lake Placid Conference Center provides 90,000 square feet of flexible meeting space in the heart of downtown Lake Placid. On the main

human spirit that is the driving force of Olympic champions, a spirit that lives in each of us.

Adjacent to the museum is the Miracle Moments retail store. With souvenirs, keepsakes, memorabilia, and more, it's a unique opportunity for visitors to take home their own small slice of the history.

Above the museum on the mezzanine level is an expansive new dining space with a sleek and contemporary vibe. Named for the independent New York Rangers' ice hockey farm team that called Lake Placid home from 1946 to 1952, Roamers

**The time visitors spend at this monument to Olympic history is always a memorable and inspiring experience.**

floor of the Olympic Center's new Miracle Plaza is the official chronicler of the region's glory and keeper of its history's tangible vestiges, the Lake Placid Olympic Museum. Featuring interactive displays and experiential learning exhibits, athlete stories, and many treasured artifacts, the museum experience leads visitors to discover the boundless

café & bar offers a casual and satisfying internationally inspired menu with eye-popping, panoramic views of the Olympic Village.

The time visitors spend in this monument to Olympic history – from watching a hockey game or figure skating competition to a visit to the museum – is a memorable, inspiring experience.





# OLYMPIC JUMPING COMPLEX

Lake Placid's ski jumps are iconic features on the local landscape. Ski jumping competitions have been held here for more than a century, and through the years, the jumps were renovated and made ever larger. Visitors are always awestruck and inspired by the courage of the athletes soaring through the air.

As the only ski jumping facility in North America homologated for year-

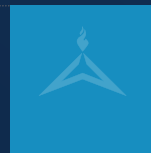
Yet there is something exciting and rare here for everyone, too. From the spacious Intervales Lodge, guests can board the Skyride Experience to the launch area, where they get close enough to hear and feel the whoosh of jumpers as they take flight. They can also ride the Sky Flyer Zipline that emulates the jumper's flight path and perspective. And they can be lifted ever higher yet on the tower's glass elevator, whisking them to stunning,

## **The Olympic Jumping Complex has always been vital to our reputation and leadership in the world of winter sports.**

round training and competition, the Olympic Jumping Complex is distinctive far beyond Lake Placid. And as a result, the FIS Ski Jumping World Cup has returned, further elevating the prominence of the venue and re-establishing it as an important center for competition and athlete development.

panoramic views of the High Peaks and Olympic Village.

The Olympic Jumping Complex has always been vital to our reputation and leadership in the world of winter sports, and today it remains a valuable asset to serve the state and community far into the future.





## MT VAN HOEVENBERG

Featuring a distinctively diverse array of sport and recreation, all steeped in a remarkable Olympic history, there is no other place like Mt Van Hoevenberg. This venue is a year-round wellspring of excitement and adventure for all ages and abilities. Because it offers opportunities to relax and unwind in a natural setting, it's a place where every visitor can make every moment count.

### **This venue is a year-round wellspring of excitement and adventure for all ages and abilities.**

On one side, its 55km of cross country ski trails and world class biathlon stadium feature the world's most powerful snowmaking system dedicated to a Nordic venue. On the other, is the combined track for bobsled, luge, and skeleton. Between them rests the Mountain Pass Lodge – with the 81-18 Café, Henry's Tavern, souvenir and outdoor gear shops, lounge and deck

areas for both relaxing and spectating events – serving athletes at all levels, recreational enthusiasts, and tourists alike. The Lodge is also home to an indoor sprint track and the only indoor bobsled and skeleton refrigerated push track in the U.S., making it a year-round hub for athletes and a rare opportunity for visitors to experience the thrill of sliding sports.

Paved roller ski trails, indoor climbing walls, mountain biking, trail running, hiking on the Mt Van Hoevenberg East Trail, and North America's longest mountain ride, the Cliffside Coaster, are some of the additional activities that make Mt Van Hoevenberg an enthralling venue and an unforgettable experience.





# WHITEFACE

Since the arrival in the 1920's of skiing's earliest pioneers, the iconic slopes of Whiteface Mountain have been home to the thrills, beauty, and freedom inherent in alpine winter sports.

In the decades that followed, thoughtful stewardship has produced a place unlike any other. On one side of the mountain is the Veterans' Memorial Highway, a New York State treasure and the only Adirondack High Peak fully accessible by all. On the other side is a

water lines, new cable and grips for the Cloudsplitter Gondola, a new roof and windows for the highway's historic Castle, a re-orientation of the Cub Carpet lift at the Bear Den Learning Center, and the year's most transformative project: installation of an innovative new lift called "The Notch" (see page 23).

Changes to the snowmaking infrastructure in 2023 and in previous years proved especially important, enabling snowmaking crews to open early and consistently deliver

## Careful stewardship continues to preserve this extraordinary legacy far into the future.

world-class ski destination with the greatest vertical drop east of the Rockies and home of 1980 Olympic alpine events as well as many other international, national, and regional competitions.

In the summer of 2023, Whiteface completed a range of development initiatives that included installing 150 new high-efficiency snow guns and their corresponding air and

visitors a top-notch experience throughout the season.

On this mountain – one that's not only launched the dreams of many elite athletes but also served multitudes of visitors as a tremendous asset for recreation in all seasons – careful stewardship continues to preserve this extraordinary legacy far into the future.



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# BELLEAYRE

Nestled in the picturesque Catskill Park, Belleayre Mountain holds a prominent place in the history of skiing in America and is today among the most impressive and popular ski areas in the Northeast.

With 64 trails, eight lifts, including the Catskill Thunder Gondola (the only gondola in the Catskill Park), modern learning facilities, three lodges, a powerful and high-efficiency snowmaking system, and

also more effectively harness water pumping capacities to achieve its current level of 96 percent snow-making coverage across the entire mountain.

The totality of recent infrastructure upgrades has Belleayre's winter guests reveling in early openings and the reliability of conditions, yet as much as skiers and snowboarders thrive here in winter, the mountain's off-snow summer

## **Belleayre's winter guests reveling in early openings and the reliability of conditions.**

terrain for all levels, Belleayre is an ideal destination for families as well as highly skilled skiers and riders.

A major factor in Belleayre's success in recent years is continued upgrades in the efficiency and effectiveness of its snowmaking systems, and those advances continued this past summer to replace older equipment. More than five miles of new pipe and 250 new high-efficiency snow guns strengthen the systems that allow Belleayre's award-winning snowmaking crew to make snow faster with less energy. These systems

activities offer an abundance of family-friendly fun, too. Belleayre's full-service beach, gondola rides, climbing wall, disc golf, four-season festivals, and hiking, are all in-demand attractions.

Such bountiful offerings are available year round in this beautiful, natural setting, all within a short drive of the NY metropolitan area. Belleayre Mountain and its thoughtful enhancements are making an important impact on healthy recreation alternatives for a large and diverse population.





Gore Mountain is expansive – the largest ski area in New York State – with four peaks, five lodges, and the most trails (108, in fact, not including terrain parks). Also boasting 14 lifts and 2,537 vertical feet of varied terrain for every skill level, Gore is a monument to the Adirondack Region’s natural beauty while also serving as a leader in outdoor recreation for all.

While its glades, terrain parks, and black diamonds challenge the most expert skiers, Gore also makes learning fun with two conveyor loading

quads and two conveyor surface lifts. It’s also home to the North Creek Ski Bowl, a second major hub of activity offering alpine and Nordic skiing, snowshoeing, and twilight skiing and snowboarding. Projects presently underway there include replacement of one of its chairlifts with a new quad designed for year-round use, construction of a four-season lodge, and installation of a summer attraction.

Already among the Northeast’s pre-eminent ski and snowboard resorts, Gore Mountain is poised to deliver even higher level guest experiences. In addition to the new Bear Cub lift, (see page 23), the snowmaking infrastructure at the Ski Bowl was greatly improved with a new valve house and new high-efficiency snow guns.

Snowmaking covers 97 percent of Gore’s trail network, and skiers and riders are finding conditions reliable throughout a consistently longer season. Powered by the largest solar array of any ski resort in the

**A monument to the Adirondack Region’s natural beauty while also serving as a leader in outdoor recreation for all.**

U.S. Gore is prioritizing environmental sustainability of its operations as crews turn sunlight into snow. Gore’s compelling vision, including the transformation of the Ski Bowl, will help secure a stronger local economy and reshape the mountain as a year-round travel destination.



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The Olympic Authority's essential purpose is to preserve the region's Olympic Legacy, advance sport and recreation, and further economic development. Operating within the Catskill and Adirondack Forest Preserves, the organization achieves that mission while prioritizing the protection of the natural environment.

Serving as a responsible steward of the New York State Forest Preserve and the lands on which our venues are located is a responsibility that the Olympic Authority team makes new strides toward each year to achieve more sustainable recreation and tourism.

### SNOWMAKING

Olympic Authority venues are industry leaders in creating more powerful snow-making systems while simultaneously reducing the operating costs and energy required to make more snow. From Belleayre to Gore to Whiteface and Mt Van Hoevenberg, our snowmaking teams are adding more high-efficiency snow guns each year and upgrading pumps, pipes, compressors, and other parts of the system to save energy. The result is more trails open earlier in the season and the best snow conditions possible, all while minimizing the environmental impact.



### COMMON GROUND ALLIANCE

In October, the Adirondack Common Ground Alliance and nearly 200 stakeholders came together at Gore Mountain to identify solutions to important issues facing the region. This was the second consecutive year the Alliance met at Gore, and they walked away from the day with three actionable priorities for a 2024 Blueprint:

- 1) improving housing and childcare alternatives,
- 2) creating a more vibrant workforce,
- 3) protecting the Adirondacks from invasive species, environmental degradation, and climate change.



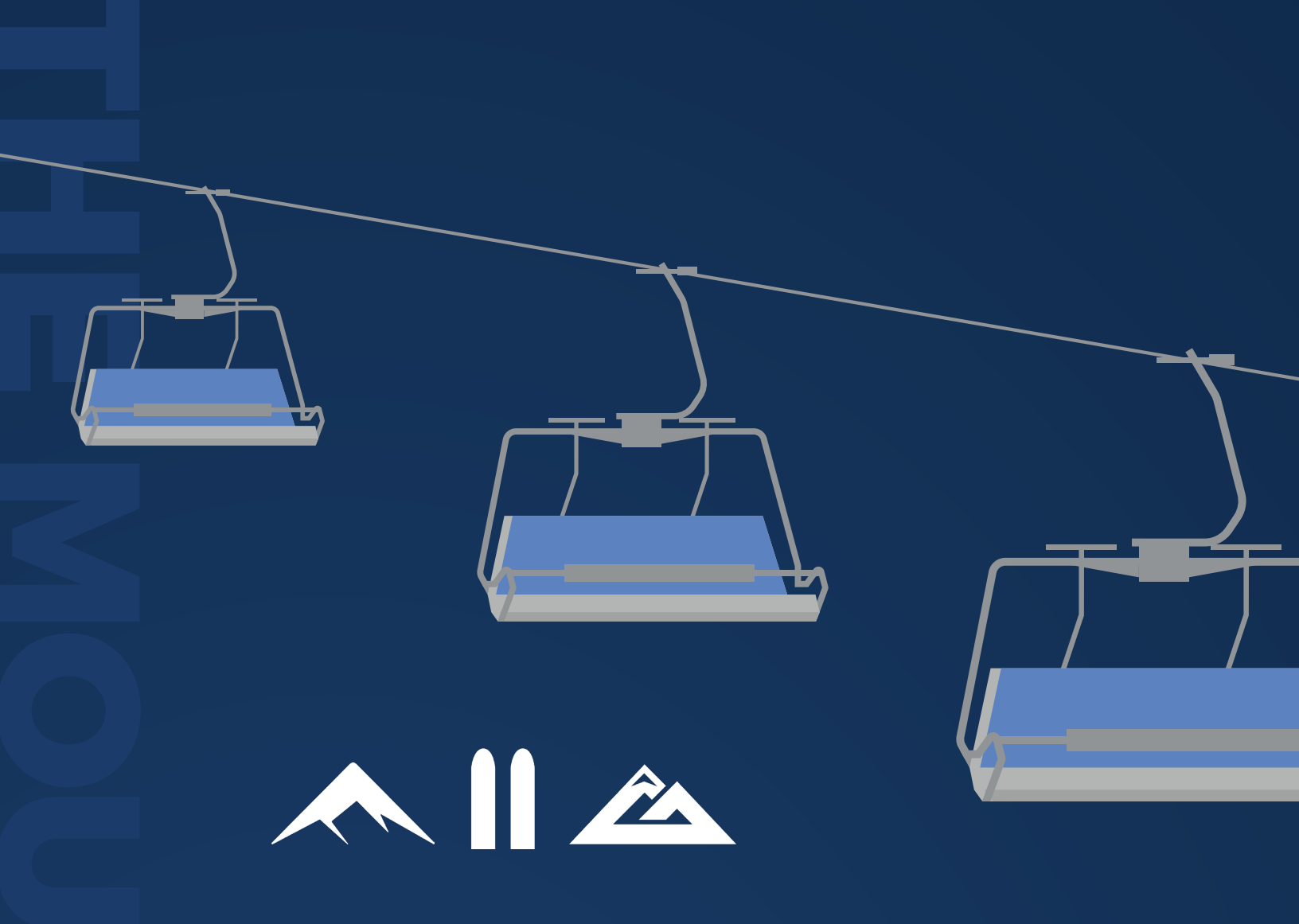
### ELECTRIC AND HYBRID VEHICLES

The Olympic Authority is reducing emissions of its vehicle fleets. Hybrid and electric snow grooming equipment and Zambonis are making our venues' fleets increasingly more energy-efficient and eco-friendly. Snowcats currently operate with high-performance engines that meet the strictest EPA emissions requirements, and several 600 E+ hybrid cats are also providing even cleaner and quieter snow grooming operations. Belleayre, Gore, and Whiteface all have hybrid groomers in their fleet. The Olympic Center is also home to two fully electric Zambonis.

### HIKING CENTERS

Come winter's end, Olympic Authority ski venues transform into hiking welcome centers with easy, safe access to a wide range of hikes for all abilities. Conveniently, they also offer restrooms, retail, food service and other activities hikers won't find at other trailheads. These front country hiking options maximize use of existing infrastructure while providing visitors with environmentally friendly options for easily accessible outdoor experiences. Hiking based at Olympic Authority venues is beneficial in many ways including: alleviating pressure on the wilderness, providing safe parking alternatives, offering hiker education and interpretive signage, and creating opportunities via gondola rides to begin hikes from higher elevations. The Department of Environmental Conservation is presently constructing a new trailhead from Mt Van Hoevenberg to the summit of Cascade Mountain, following its successful introduction of the venue's popular East Trail.



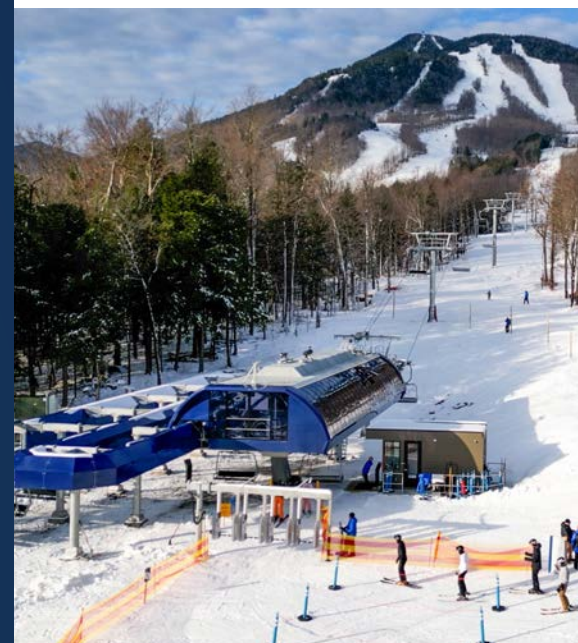
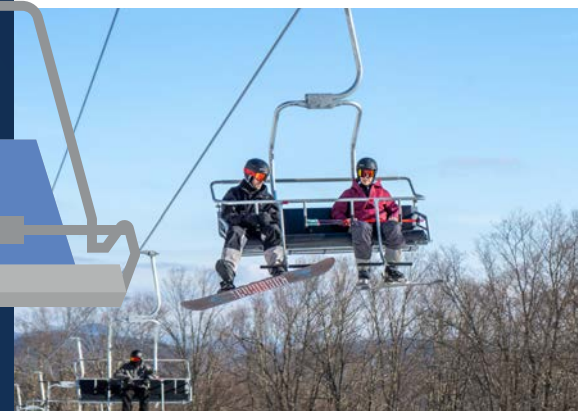


## NEW LIFTS AT ALL THREE ALPINE SKI AREAS

Ski lifts are the essential mountain hardware that delivers access to fun and adventure. For many, the right lifts remove barriers and boost access. Over time, lifts also become part of a mountain's personality.

They have evolved greatly through the decades, and every lift during its years of service requires not only ongoing maintenance but also, eventually, replacement. Installing new lifts are big summer projects for ski areas that make an outsized difference in guests' experiences, too.

At all three Olympic Authority alpine ski venues this past summer, new lifts were installed, two of which replaced aging lifts and the third added transformative new infrastructure to the mountain.



### BELLEAYRE

Making a substantial and long-term impact on the guest experience at Belleayre was the replacement of Lift 7 with the Overlook Quad, which takes skiers and riders to the summit from Overlook Lodge. This move replaced an aging triple chair with updated infrastructure that provides reliable access to much of the most popular and more challenging terrain on the mountain. The project also included a bridge over the lodge's parking area, improving access to the lift for visitors coming off multiple trails.

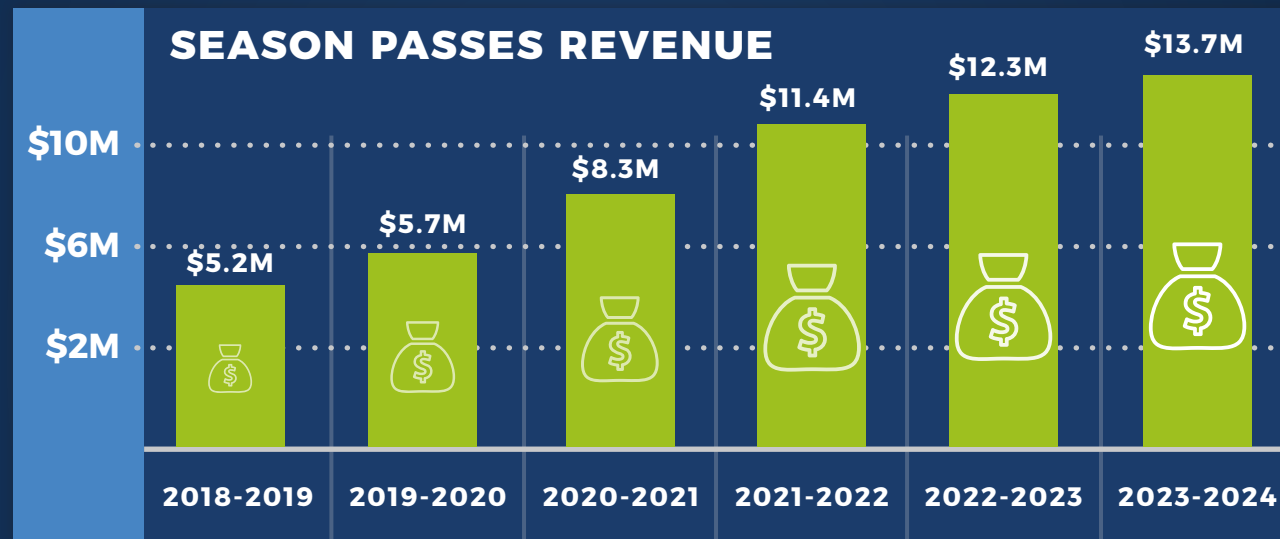
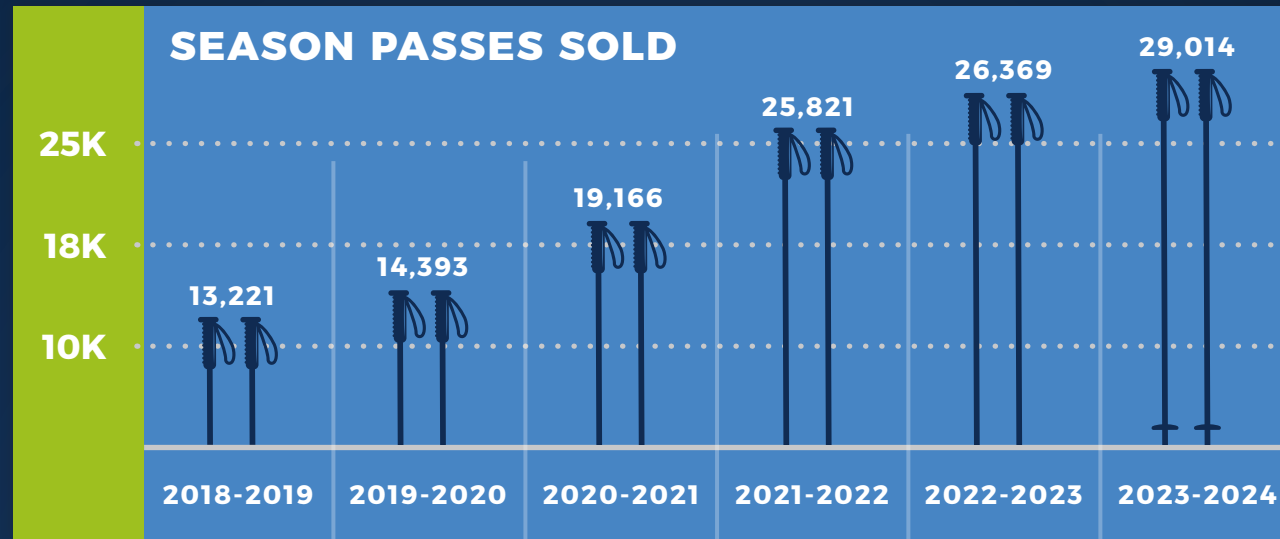
### GORE

Improving the beginner experience and boosting access to more terrain, the new Bear Cub lift at the base of Gore Mountain replaced an older sit-disc lift with a new quad chairlift and conveyor-loading system. The conveyor helps facilitate an improved learning experience while adding efficiency to the loading process.

### WHITEFACE

In the year's most transformative project at Whiteface, a new easy-loading detachable quad lift was installed from the Bear Den Lodge to a point just beyond the Legacy Lodge at mid-station. Named "The Notch" after the area's stunning stretch of road along the West Branch of the Ausable River, this innovative new lift will improve the learning experience for many visitors. The Notch is actually two detachable lifts in one that operate seamlessly together, allowing riders to unload at the top of the easier-rated Boreen trail or continue on to the Legacy Lodge or upper-mountain terrain. The Notch helps more people experience all that Whiteface has to offer, while improving skier flow throughout the venue.





According to the National Weather Service, the 2023-24 winter was the warmest on record. It was under those unusual circumstances that the Olympic Authority once again achieved visits of more than one million to all venues combined, a record first set in the 2022-23 fiscal year and met once again in 2023-24.

All Olympic Authority ski areas maintained favorable skiing conditions for recreational skiing and major events. Venue renewal projects, including high-efficiency snowmaking equipment, contributed greatly to the guest experience and the ability to host major winter sporting events including the FIS Ski Jumping World Cup and the Junior National Nordic Championships.

## 1,014,292

Total Visits | 2022-2023



## 1,066,961

Total Visits | 2023-2024

# OPERATIONAL REVENUE **\$63,723,442**

..... \$60,857,704 Last Year



### ICE ADMISSIONS

Public skaters participated in an increased number of programs, events, and recreational time on all four rinks during 23/24, and the associated revenue grew to over \$325,000.



### RETAIL REVENUE

The Olympic Authority's retail shops sell quality merchandise year-round that reflect the exciting and unique experience of each venue. In the third fiscal year of the Olympic Authority managing its own retail operations, revenue grew to over \$3.5 million.



### ATTRACTIONS & ACTIVITIES

Up over one million dollars during 23/24, this growth was especially attributable to the Lake Placid Olympic Museum, the popularity of the ziplines at the Olympic Jumping Complex, and an array of public programming at Mt Van Hoevenberg.



### SNOWSPORTS LESSONS

With all three mountains installing lifts that improved the learning experience in 23/24 and an increased demand for recreation overall, the Olympic Authority Snow Sports Schools were busy with lessons for all ages and abilities. This growth was particularly strong at Whiteface Mountain.



### VENUE RENTALS

Venue rentals exceeded \$1M during 23/24, due in part to the resurgence of conferences at the Olympic Center.



### EVENT REVENUE

With a calendar ranging from recreational contests to high-caliber international competitions throughout the year, the teams are busy delivering events that people are excited to add to their itineraries.



- \$39.2M RECREATION**  
Attractions, entertainment, and other recreation
- \$33.1M LODGING**  
Hotels, motels, private home rentals, RVs, camping
- \$26.9M FOOD & BEVERAGE**  
Full-service restaurants, fast food, convenience stores
- \$20.3M RETAIL**  
Souvenirs, general merchandise, local retailers
- \$14.2M TRANSPORTATION**  
Gas, parking, ride share, taxi
- \$133.8 MILLION**  
Visitor spending, FY 2022-2023

**\$156M**

2016-17 Economic Impact for NYS



**\$273.6M**

2019-20 Economic Impact for NYS

**119% INCREASE OVER 6 YEARS**



Governor Kathy Hochul visited Mt Van Hoevenberg on Tuesday, January 23 to outline budget priorities.

### ECONOMIC IMPACT

The recent modernization of Olympic Authority venues has elevated fields of play to world class standards while also creating exceptional destinations for recreation and tourism in all seasons. As a result, the economic impact of the venues and their events and activities are continuing an upward trajectory into the future.

**Economic impact numbers released in the summer of 2023 from a study by Tourism Economics revealed the Olympic Authority's total impact to be \$341.8 million.**

[View full details of this economic impact study.](#)



**\$341.8M**

2022-23 Economic Impact for NYS



### CORPORATE/GROUP SERVICES

Corporate retreats, industry conferences, school outings, family reunions, and weddings are common types of group activities the Olympic Authority's Lake Placid Legacy Adventures team organizes and facilitates throughout each year.

An experienced team of Sales and Sport Development staff assists groups in planning their single- or multi-day adventures. In doing so, groups select from the full range of activities available to other visitors as well as custom crafted experiences that also often include onsite food services. This team's experience and efforts, combined with the modernization of venues, has produced increases of greater than 50 percent in both total guests and total sales volumes. These are all custom, interactive experiences in a historical context, creating memories to last a lifetime.

	2022-2023	2023-2024
<b>GUESTS</b>	<b>2,077</b>	<b>4,056</b>
<b>SALES</b>	<b>\$139,713</b>	<b>\$235,726</b>



# 100TH ANNIVERSARY OF THE WINTER OLYMPIC GAMES

Every four years over the past century, the world has come together for the greatest athletic competition on snow and ice, and the Lake Placid Region took part this year in a global celebration of those first Olympic Winter Games.

Held in Chamonix, France in 1924, it was in the first moments of those first Winter Games that an enduring connection was forged with Lake Placid. As local resident Charles Jewtraw crossed the finish line ahead of all other competitors in the 500-meter speedskating race, he cemented a powerful link between his hometown and the Olympic Winter Games.

A mere eight years later at another Winter Olympics, yet another Lake Placid speedskater, Jack Shea, would cross the line first in the same 500-meter speedskating race. This time doing it in his own hometown, winning the first gold medal of the 1932 Winter Games.

Today, having hosted two Olympic Winter Games and having sent a local athlete to every Winter Games ever held, Lake Placid's place in this history looms large. The Lake Placid Olympic Museum helped the community and its visitors

commemorate this centennial with a wall plaque exhibit inside the main door and with a special event, titled "See You in Paris," in recognition of the upcoming Summer Games.

The museum's mission is to tell the world about the Olympic movement and Lake Placid's rich winter sports history, and in this centennial year, the museum staff did so exquisitely, achieving record visits and reaching more people than ever.



The 1924 U.S. Olympic ice hockey team traveling to Chamonix, France. Taffy Abel, sixth person from the left, stands tall at 6' 1", earning him the nickname "Michigan Mountain" from sportswriters.



Team France marching in the 1924 Opening Ceremony carrying various sporting equipment from hockey sticks to skis.

# BID TO HOST THE MILANO CORTINA 2026 SLIDING SPORTS

Due to construction complications with the track in Italy, the Milano Cortina 2026 Olympic Organizing Committee released a tender November 1, 2023, seeking a proposal for potential alternative locations to host the sliding sports (bobsleigh, skeleton, luge). Exactly one month later, the U.S. Olympic and Paralympic Committee submitted the Olympic Authority's proposal.

The ongoing commitment to manage, market, and maintain among the world's best facilities for training and competition make Mt Van Hoevenberg an ideal site to host these sports in 2026 and are testament to both the legacy and the future of international winter sport in Lake Placid.

The technically challenging track directly adjacent to the new 55,000 square foot Mountain Pass Lodge has proven time and again to be a leading venue for international competitions. If Lake Placid were chosen to host the 2026 sliding sports the proposal also includes the Olympic Authority partnering with the State to add a one-of-a-kind element, a Celebration in Rockefeller Center, where athletes will be the

center of attention on many levels. The event in New York City would also facilitate easy travel to Milan to continue to be a part of the host city festivities and Closing Ceremonies.

Home to USA Luge, USA Bobsled and Skeleton, and the United States Olympic Paralympic Training Center (USOPTC), Lake Placid holds a special place in Olympic history as the host of the first-ever Olympic Winter Games in the United States.

While the Milano Cortina 2026 Olympic Organizing Committee later announced it will continue pursuing construction of the track in Italy, the proposal submitted in December remains an option as a compelling solution for an unforgettable and culturally rich location for the sliding sports in 2026. Additionally, the collaboration on this bid with New York City also advances potential affiliations on other future events.

[View the entire proposal online](#)



## WORLD FIGURE AND FANCY SKATING CHAMPIONSHIPS

Both a world class skating competition and cultural celebration, the World Figure and Fancy Skating Championships returned to Lake Placid in October 2023, blending the sport and art of figure skating with fine art, including performance, decorative, and recording arts.

Debi Thomas, the 1986 World Champion in Figure Skating, a two-time U.S. National Champion, the 1988 bronze medal winner at the Calgary Games, the first black athlete from any country to win a medal in any sport in the Winter Olympics, and the last skater in history to win the compulsory figures competition in the Olympic Games, returned to competition at these championships to honor the art form and inspire the younger generation.

## FIS SKI JUMPING WORLD CUP

The International Ski and Snowboard Federation's (FIS) Ski Jumping World Cup returned to Lake Placid February 9 through 11. The Olympic Jumping Complex's advanced snowmaking technology, updated grooming equipment, fully homologated jumps and landing surfaces, consistent and reliable ceramic frost rails, and a renovated judges stand are necessary elements that made this event possible. For the second consecutive year, more than 15,000 tickets were sold over the three days of competition bringing in energetic, enthusiastic, flag-waving crowds and visibly demonstrating Lake Placid's rising reputation in the world of international ski jumping.

## ISU WORLD ICE SKATING DAY

The International Skating Union (ISU) chose the Olympic Center in Lake Placid as their Main Event Partner for the 2023 World Ice Skating Day, held on the first Sunday in December. The newly modernized venue, its historic indoor and outdoor arenas, and the many legends who have performed and trained on this ice made it the perfect backdrop for a day full of festivities with a global audience.

With hockey games, skating lessons, relay races, public skating, a parade of nations, and even a synchronized skating exhibition, the day's events offered something for everyone at all levels. Throughout the day, guests came together to learn, practice, share their passions, and enjoy the full range of skating sports. A global festival with 78 countries participating around the world, Lake Placid's Olympic Center served as a brilliant centerpiece of activity.

## FIL WORLD CUP LUGE

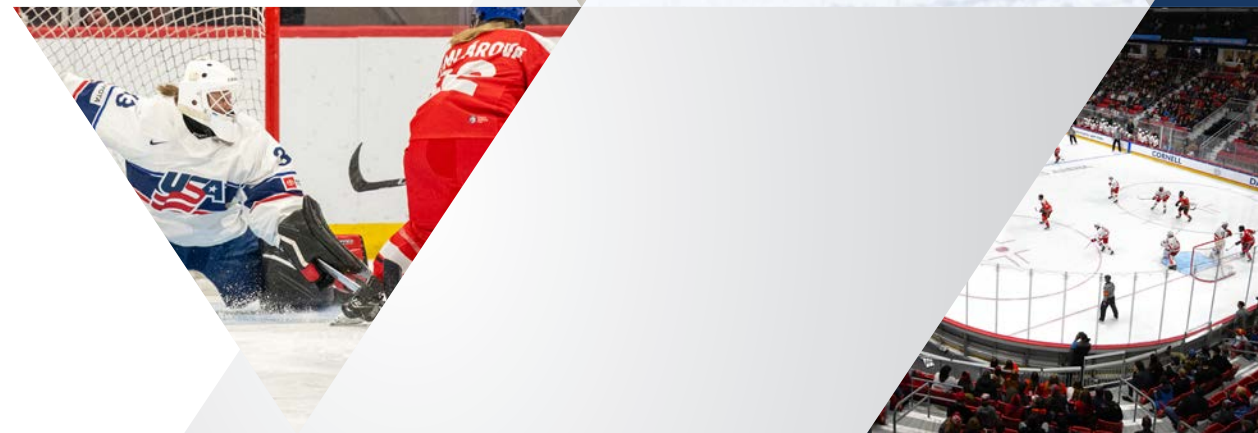
Mt Van Hoevenberg hosted the season opener of the FIL World Cup Luge competitions. Crowds came out to cheer on the field in this fastest sport on ice, featuring the best luge athletes on Earth on the most technical track in the world.

It was at this event the second week in December that local Saranac Lake athlete Chris Mazdzer announced his retirement from the sport after 25 years. The thrills inherent in this competition were made all the more poignant on Mazdzer's last run, as cheering crowds expressed their admiration for his commitment to the sport and his career accomplishments, including his silver medal at the 2018 Winter Games in PyeongChang.



2023-2024 MAJOR EVENTS

- STAR SPANGLED SKI JUMP
- LAKE PLACID FIGURE SKATING CHAMPIONSHIPS
- KEYS TO THE CASTLE / CLIMB THE CASTLE
- USA WOMEN'S HOCKEY NATIONAL FESTIVAL
- LAKE PLACID ICE DANCE CHAMPIONSHIPS & INTERNATIONAL
- WORLD FIGURE AND FANCY SKATING CHAMPIONSHIPS
- FLAMING LEAVES FESTIVAL FIS CONTINENTAL CUP SKI JUMPING
- USANS SKI JUMPING NATIONALS
- 2023 IBSF NORTH AMERICAN CUP BOBSLED & SKELETON
- WORLD ICE SKATING DAY
- FIL LUGE WORLD CUP
- MIRACLE HOLIDAY CLASSIC MITE JAMBOREE HOCKEY TOURNAMENT
- MIRACLE HOLIDAY CLASSIC YOUTH HOCKEY TOURNAMENT
- ADIRONDACK WINTER INVITATIONAL HOCKEY TOURNAMENT
- ISI FIGURE SKATING CHAMPIONSHIPS
- FIL LUGE CONTINENTAL CUP
- SUPERTOUR EASTERN CUP NORDIC
- EMPIRE STATE WINTER GAMES
- FIS SKI JUMPING WORLD CUP
- MIRACLE WINTER CLASSIC MITE JAMBOREE HOCKEY TOURNAMENT
- SWIX LAKE PLACID LOPPET
- NYSPHAA ALPINE & NORDIC CHAMPIONSHIPS
- FIS NORAM CUP AERIALS
- USSS HOLE SHOT CROSS TOUR
- USCSA NORDIC & ALPINE NATIONAL CHAMPIONSHIPS
- 2024 IBSF NORTH AMERICAN CUP BOBSLED & SKELETON
- USS NORDIC JUNIOR NATIONALS
- ECAC MEN'S HOCKEY CHAMPIONSHIPS
- IBSF WORLD CUP BOBSLED & SKELETON





## NEW 2023-24 SPONSORS

Sponsorships have a role to play in reaching financial goals, advancing sport and recreation as well as the guest experience, and more generally in achieving our mission. Beyond these objectives, the Olympic Authority, when appropriate, chooses to affiliate with businesses and brands that align with our venues and our values, such as sustainability and healthy living.

RAIN was selected this past year as the Official Premium Water of the Olympic Authority. RAIN's pure mountain spring water from 100% recyclable aluminum bottles has been made available across the venues. Sourced from sustainable artesian springs, RAIN is a healthy beverage option benefits guests and reduces the planet's reliance on single-use plastics.

Ariens is a renowned American company with a passion for quality, for winter sports, and for athlete success. With a year-round role in the maintenance of Olympic Authority venues, this sponsorship aligns shared commitments for excellence and the advancement of winter sports for people at all levels.

Adirondack Beverages and its parent company Polar Beverages are also organizations demonstrating values that align with the Olympic Authority commitment to sporting excellence and environmental stewardship. In addition to providing consumers healthy beverage alternatives, that company maintains a dedication to sustainability that includes low-energy production technologies, reduced use of water and raw materials, and increasing recycling.

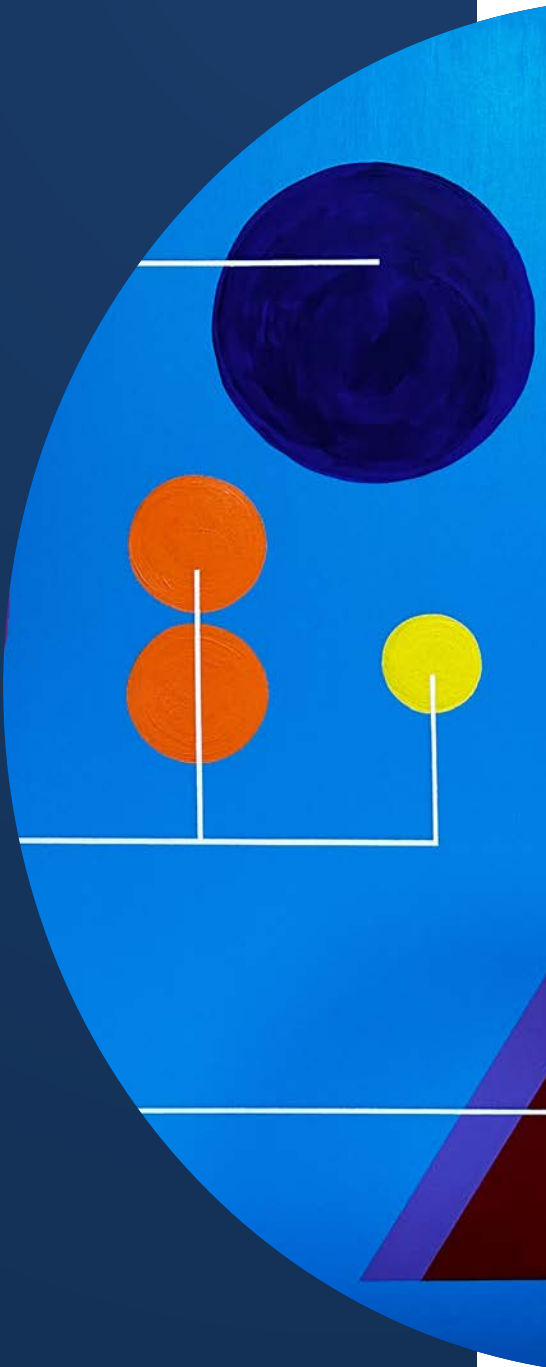




Across Olympic Authority communities, people come together and grow together. Sport and recreation are vital elements that further our sense of community and strengthen the places we live.

Following the renewal projects that have lifted our venues to the highest standards in the world, our communities enter a bold new era filled with brilliant new opportunities. In this era, our communities will connect with one another, elevate our individual and collective human potential, and create positive impacts that will ripple through every one of us at every age and every level of ability.

From Lake Placid to Wilmington to North Creek to Highmount, programs, events, and activities are already fostering experiences and connections. These communities and others regionally benefit from year-round opportunities, local club and school programs, and coaches and leaders who give back to their sports and their communities.



## A SMALL SAMPLING OF THESE WIDE-RANGING PROGRAMS:

- Adaptive ski and ride programs for all ages and all abilities at each of our three alpine venues
- Adult weekend ski and ride workshops and Mountain Adventure Programs at all alpine venues
- Gore Regional School Program (GRS), for youth ages five to 18 in a local school or youth commission (alpine or Nordic combined)
- Job and Career Training (JACT) program with the Lake Placid Central School District that helps students get on-the-job experience with local businesses and sample career paths
- Youth Sport Fundamentals, 10-session program at Mt Van Hoevenberg for ages seven to 12, designed to introduce and hone fundamental sport skills (strength, coordination, and kinesthetic awareness)
- Discover Biathlon/Luge/Mountain Biking at Mt Van Hoevenberg
- U.S. Olympic and Paralympic Training Center's Paralympic Nordic Development Camp
- Youth Bobsled and Skeleton sliding program for ages eight to 17
- Wee-Ski program in Keene, Lake Placid, and Saranac Lake, designed to introduce toddlers and small children to skiing and snowshoeing
- Skating Club of Lake Placid and Lake Placid Youth Athletic Association programs at the Olympic Center for various ages, beginning at two years old
- Adirondack Speed Skating Club for anyone seeking year-round training
- NYSEF Alpine, Freeride, Cross Country, Biathlon, Nordic, Ski Jumping & Nordic Combined for all ages and abilities

*These and many other programs are part of the Olympic Authority's renewed venues, and the people who make these programs possible play an integral role in their immeasurable benefits to our communities.*





## WHITEFACE MOUNTAIN VETERANS' MEMORIAL HIGHWAY

Among the many extraordinary New York State assets, there is one that not only inspires awe in our natural world but also is of profound national and historical significance.

The Whiteface Mountain Veterans' Memorial Highway is a five-mile paved road that winds up one side of the mountain, ascending 2,300 feet via a series of turns with barriers made of hand-hewn rock. It stops just short of the summit of the fifth highest peak in the Adirondack Mountains, where a castle graces the bare rock face above the tree line.

Along with recent improvements to the other venues, the Olympic Authority made upgrades to the Memorial Highway in recent years, including a new elevator, and made improvements to the Castle that include roof upgrades and restoration of its stonework, all to help ensure the longevity of this historic, high-elevation structure.

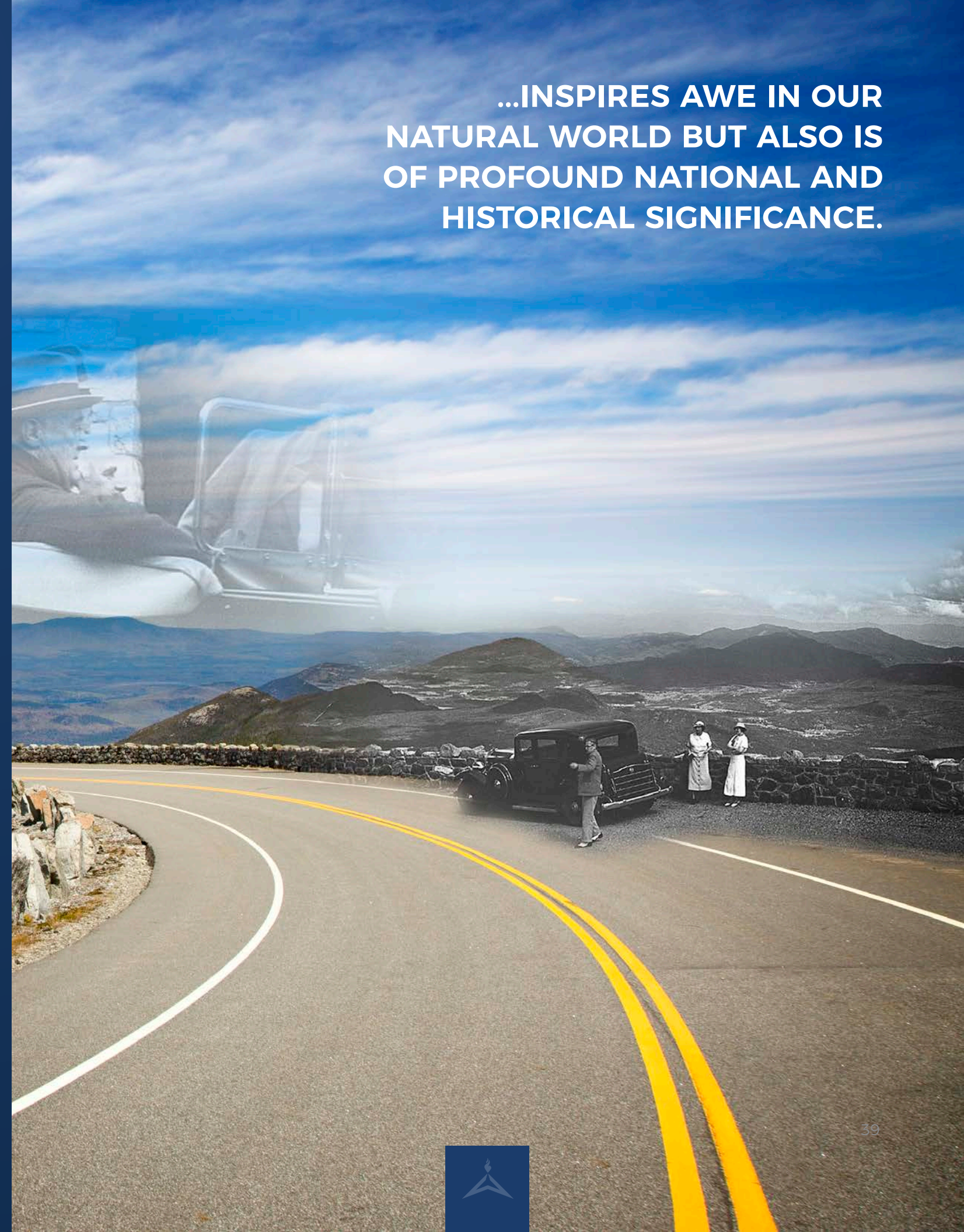
### AS SPECTACULAR AS THAT SEEMS, THE TOTALITY OF THIS NEW YORK STATE TREASURE IS GREATER YET:

Dedicated in 1935 to the memory of America's service personnel serving in World War I, the Whiteface Veterans Memorial Highway was rededicated in 1985 to honor U.S. veterans of all wars. Originally conceived of and built to provide disabled military veterans a summit view of the majestic Adirondack High Peaks and the surrounding area, the highway and castle are preserved today in recognition of the service and sacrifices of America's military personnel and stands as a solemn memorial for all.

The highway was commissioned in 1929 by then Governor of New York State, Franklin D. Roosevelt and declared open July 20, 1935, by the then President Roosevelt. A Swiss-style alpine chalet meets visitors three miles up the mountain from Wilmington, where the toll road officially begins. This remarkable feat of engineering with a 1930s Adirondack aesthetic is listed on the National Register of Historic Places and offers an unforgettable experience for all who visit.

The Highway rises to within 92 vertical meters of the mountain's summit, where a 0.2-mile trail with an iron handrail assists visitors hiking the bare rock to the top. Immediately adjacent to the highway's parking area, a 426-foot tunnel is carved deep into the mountain's core, at the end of which an elevator rises 26 stories to provide every visitor passage to the summit. This astonishing feature makes this the only Adirondack summit accessible by wheelchair and provides all visitors full access to the highway's extraordinary mountaintop splendors.

...INSPIRES AWE IN OUR NATURAL WORLD BUT ALSO IS OF PROFOUND NATIONAL AND HISTORICAL SIGNIFICANCE.





With major renewal projects complete and venues well-positioned for the future, the Olympic Authority has entered a bold new era.

In May 2023, Olympic Authority President & CEO Mike Pratt announced plans to retire. Of his 38 years with the organization, his last 6 were as President & CEO. His ability to combine vision and action dramatically reshaped each venue with landmark transformations. He oversaw a period of tremendous revenue and project growth for the Authority, and successfully led the organization through the challenges of the COVID-19 pandemic.

Ashley Walden was chosen in August 2023 to succeed Pratt as Olympic Authority President & CEO. Walden achieved success as an athlete with USA Luge on the Olympic and World Cup levels before transitioning to sport leadership roles. She served as Executive Director of the Adirondack Sports Council, where she promoted sports and athletic development across the region and led the organization of the 2023 Winter World University Games, a multi-sport collegiate event that involved over 50 countries and nearly 600 universities. In a previous position as Director of Sport and Operations for USA Bobsled and Skeleton, Walden also spearheaded recruiting and development efforts that supported the growth and performance of this national governing body's athletes.

The Olympic Authority Board of Directors saw in Walden a leader with the skill and experience needed to build on previous economic successes and ensure a vibrant future. As the organization moves forward into the new era, Walden is already overcoming challenges, setting ambitious goals, and inspiring Olympic Authority teams to achieve their potential.



**WE ARE THE OLYMPIC AUTHORITY**  
VIDEO SERIES

### SNAPSHOTS OF OUR TEAM

The staff of the Olympic Authority are experts in their field and the heart and soul of the organization.





NEW YORK STATE

**OLYMPIC REGIONAL  
DEVELOPMENT AUTHORITY**

**2023-2024 ANNUAL REPORT**



## NEW YORK STATE OLYMPIC REGIONAL DEVELOPMENT AUTHORITY

### Resolution #539

#### **RESOLUTION APPROVING INDEPENDENT AUDITOR'S REPORT**

At a meeting of the Board of Directors of the Olympic Regional Development Authority (“Olympic Authority”) held on June 26, 2024, the Chair offered the following resolution:

**WHEREAS**, pursuant to the requirements of Public Authorities Law § 2802 (1), the Olympic Authority shall:

“ . . . submit to the governor, chairman and ranking minority member of the senate finance committee, chairman and ranking minority member of the assembly ways and means committee, each chair and ranking member of the senate and assembly committees on corporations, authorities and commissions, the state comptroller, and the authorities budget office, together with the report described in section twenty-eight hundred of this title [Olympic Authority’s Annual Report], a copy of the annual independent audit report, performed by a certified public accounting firm in accordance with generally accepted auditing standards as defined in subdivision eleven of section two of the state finance law, and management letter and any other external examination of the books and accounts . . . .;” and

**WHEREAS**, the services of EFPR Group, CPAs, PLLC, a certified public accounting and consulting firm, have been retained by the Olympic Authority to complete an independent financial audit in compliance with the requirements of Public Authorities Law § 2802 (1); and

**WHEREAS**, annexed hereto and made a part hereof is the independent financial audit report prepared by EFPR Group, CPAs, PLLC (“Independent Auditor’s Report”); and

**WHEREAS**, at a duly called meeting of the Audit Committee held on June 11, 2024, the Audit Committee recommended the approval of the Independent Auditor’s Report by the Board of Directors, based on the Committee’s thorough review and consideration of such Report; and

**WHEREAS**, the Board has been provided with the Independent Auditor’s Report, an explanation of the independent auditor’s methodology and findings, and an opportunity to make inquiries and/or comments; and

**WHEREAS**, the Board being satisfied with the contents of the Independent Auditor’s Report and the financial statements of the Olympic Authority reflected therein;

**NOW, THEREFORE, BE IT RESOLVED** that the Board hereby approves the Independent Auditor’s Report, and further directs that the Independent Auditor’s Report be



NEW YORK STATE OLYMPIC REGIONAL  
DEVELOPMENT AUTHORITY  
(A Discretely Presented Component  
Unit of the State of New York)

Financial Statements and  
Independent Auditor's Reports

March 31, 2024 and 2023

NEW YORK STATE OLYMPIC REGIONAL  
DEVELOPMENT AUTHORITY

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## INDEPENDENT AUDITORS' REPORT

The Board of Directors  
New York State Olympic Regional  
Development Authority:

### Report on the Financial Statements

#### Opinion

We have audited the financial statements of New York State Olympic Regional Development Authority (the Olympic Authority), as of and for the years ended March 31, 2024 and 2023, and the related notes to financial statements, which collectively comprise the Olympic Authority's basic financial statements as listed in the table of contents.

In our opinion, the accompanying financial statements referred to above present fairly, in all material respects, the financial position of the New York State Olympic Regional Development Authority, as of March 31, 2024 and 2023, and the changes in financial position and cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

#### Basis for Opinion

We conducted our audits in accordance with auditing standards generally accepted in the United States of America (GAAS) and the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States. Our responsibilities under those standards are further described in the Auditors' Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of the Olympic Authority and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audits. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

#### Responsibility of Management for the Financial Statements

Management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America, and for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the Olympic Authority's ability to continue as a going concern for twelve months beyond the financial statement date, including any currently known information that may raise substantial doubt shortly thereafter.

## Auditors' Responsibilities for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditors' report that includes our opinions. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS and Government Auditing Standards will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with GAAS and Government Auditing Standards, we:

- Exercise professional judgment and maintain professional skepticism throughout the audits.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audits in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Olympic Authority's internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about the Olympic Authority's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control-related matters that we identified during the audits.

### Required Supplementary Information

Accounting principles generally accepted in the United States of America require that the required supplementary information, such as management's discussion and analysis and the additional information on pages 39 through 41 be presented to supplement the basic financial statements. Such information is the responsibility of management and, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our

inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Other Reporting Required by Government Auditing Standards

In accordance with Government Auditing Standards, we have also issued our report dated \_\_\_\_\_, 2024 on our consideration of the Olympic Authority’s internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is solely to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the Olympic Authority’s internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with Government Auditing Standards in considering the Olympic Authority’s internal control over financial reporting and compliance.

Williamsville, New York  
, 2024

NEW YORK STATE OLYMPIC REGIONAL  
DEVELOPMENT AUTHORITY

Management's Discussion and Analysis

March 31, 2024 and 2023

Within this section of the New York State Olympic Regional Development Authority's (the Olympic Authority) annual financial report, management provides narrative discussion and analysis of the financial activities for the years ended March 31, 2024 and 2023. The Olympic Authority's financial performance is discussed and analyzed within the context of the accompanying financial statements and disclosure following this section.

Financial Highlights

- The Olympic Authority's net position was \$444,080,548 as of March 31, 2024. The previous year's net position was \$409,604,119.
- Total net position is comprised of the following:
  - Net investment in capital assets on March 31, 2024 was \$478,345,261 which includes capital assets (property and equipment), net of accumulated depreciation and related debt. The previous year's net investment in capital assets amounted to \$443,034,512.
  - Unrestricted net position on March 31, 2024 was (\$34,264,713) representing the excess of non-capital expenses over revenue since the inception of the Olympic Authority. The previous year's unrestricted net position amounted to (\$33,430,393).
- The Olympic Authority took over the retail stores during the year ended March 31, 2022. Total revenue for the years ended March 31, 2024 and 2023 was \$3,547,406 and \$3,209,196 respectively, an increase of over \$338,000. Net operating retail revenue for the years ended March 31, 2024 and 2023 was \$722,332 and \$723,645 respectively.
- As of March 31, 2024 and 2023 there was no outstanding balance on the line of credit. The line of credit is still open and available at \$7,000,000.
- As of March 31, 2024 and 2023, the Olympic Authority had no outstanding debts.
  - The Olympic Authority has maintained a zero-balance debt for three consecutive years, eliminating interest expenses. Through successful management of cash flows, the Olympic Authority realizes annual savings when possible by paying invoices in full vs. paying installment premiums.

Overview of Financial Statements

The basic financial statements include the statements of net position, revenue, expenses and changes in net position, cash flows, and notes to financial statements. The Olympic Authority also includes in this report additional information to supplement the basic financial statements.

NEW YORK STATE OLYMPIC REGIONAL  
DEVELOPMENT AUTHORITY

Management's Discussion and Analysis, Continued

The first of these statements is the statement of net position. This is the statement of financial position presenting information that includes all the Olympic Authority's assets, deferred outflows, liabilities and deferred inflows, with the difference reported as net position. Over time, increases or decreases in net position may serve as a useful indicator of whether the financial position of the Olympic Authority as a whole is improving or deteriorating. Evaluation of the overall economic health of the Olympic Authority must include other non-financial factors such as the condition of the Olympic Authority's property and equipment, and the economic picture of New York State (the State) and the United States, in addition to the financial information provided in this report.

The second statement is the statement of revenue, expenses and changes in net position, which reports how the Olympic Authority's net position changed during the year. Revenue and expenses are included when earned or incurred, regardless of when cash is received or paid. An important purpose of the format of this statement is to show the Olympic Authority's financial reliance on the distinct activities related to each of its venues, as well as revenues provided by our sponsors, the State, and Town of North Elba (the Town).

The third statement is the statement of cash flows, which shows the sources and uses of cash. For the year ended March 31, 2024, operating activities used \$12,233,208 of cash, net cash provided by noncapital financing activities of \$13,382,438, net cash provided by capital and related financing activities was \$1,504,300 and investing activities provided cash of \$5,512,026, resulting in a net increase in cash and equivalents of \$8,165,556. Cash and equivalents at the beginning of the year were \$33,112,777 while at the end of the year cash and equivalents were \$41,278,333. For the year ended March 31, 2023, operating activities used \$7,595,581 of cash, net cash provided by noncapital financing activities of \$16,206,027, net cash provided by capital and related financing activities was \$3,672,898 and investing activities used cash of \$11,865,951, resulting in a net increase in cash and equivalents of \$417,393. Cash and equivalents at the beginning of the year were \$32,695,384 while at the end of the year cash and equivalents were \$33,112,777.

This statement also presents the reconciliation of net loss from operations of \$47,368,377 and \$29,386,408 (including depreciation of \$29,040,431 and \$25,545,867 and loss on disposal of assets of \$1,587,512 and \$735,027) to net cash used in operating activities of \$12,233,208 and \$7,595,581, for the years ended March 31, 2024 and 2023, respectively.

The accompanying notes to financial statements provide information essential to a full understanding of the financial statements.

Financial Analysis of the Olympic Authority

As year-to-year financial information is accumulated on a consistent basis, changes in net position may be observed and used to analyze the changing financial position of the Olympic Authority as a whole.

NEW YORK STATE OLYMPIC REGIONAL  
DEVELOPMENT AUTHORITY

Management's Discussion and Analysis, Continued

The Olympic Authority's net position at March 31, 2024 is \$444,080,548. This is a \$34,476,429 increase over last year's net position of \$409,604,119. The following table provides a summary of the elements of the Olympic Authority's net position:

	<u>2024</u>	<u>2023</u>	<u>Change</u>	<u>Percentage Change</u>
<b>Assets:</b>				
Current assets	\$ 54,962,809	52,555,072	2,407,737	4.58%
Capital assets	478,345,261	443,034,512	35,310,749	7.97%
Net pension asset	-	6,228,405	(6,228,405)	(100.00%)
<b>Total assets</b>	<b>533,308,070</b>	<b>501,817,989</b>	<b>31,490,081</b>	<b>6.28%</b>
Deferred outflows of resources	23,730,152	26,102,033	(2,371,881)	(9.09%)
<b>Total assets and deferred outflow resources</b>	<b>557,038,222</b>	<b>527,920,022</b>	<b>29,118,200</b>	<b>5.52%</b>
<b>Liabilities:</b>				
Current liabilities	14,157,351	12,411,625	1,745,726	14.07%
Other liabilities	62,121,475	53,002,016	9,119,459	17.21%
<b>Total liabilities</b>	<b>76,278,826</b>	<b>65,413,641</b>	<b>10,865,185</b>	<b>16.61%</b>
Deferred inflows of resources	36,678,848	52,902,262	(16,223,414)	(30.67%)
<b>Total liabilities and deferred inflows of resources</b>	<b>112,957,674</b>	<b>118,315,903</b>	<b>(5,358,229)</b>	<b>(4.53%)</b>
<b>Net position:</b>				
Net invested in capital assets	478,345,261	443,034,512	35,310,749	7.97%
Unrestricted (deficit)	(34,264,713)	(33,430,393)	(834,320)	(2.50%)
<b>Total net position</b>	<b>\$ 444,080,548</b>	<b>409,604,119</b>	<b>34,476,429</b>	<b>8.42%</b>

Current assets increased \$2,407,737; this was the result of timing differences as to when cash was received and invoices ready for payment along with now having an investment account.

Capital assets increased \$35,310,749 (net) primarily because the State has made a commitment to provide capital funds to improve the Olympic Authority's facilities. Major projects during 2023/2024 stretched across all venues. Projects included replacement and/or upgrades of several lifts at the three ski areas, along with continued snowmaking and pumphouse improvements and a new ski bridge at Belleayre. The Olympic Jumping Complex added a new maintenance garage and improvements to the judge's tower and staging building. Administrative offices were completed at Mt. Van Hoevenberg, Solar facilities were purchased for Gore Mountain and there was continued preservation of the Castle and Roundhouse on the Veterans' Memorial Highway.

NEW YORK STATE OLYMPIC REGIONAL  
DEVELOPMENT AUTHORITY

Management's Discussion and Analysis, Continued

Deferred outflows, deferred inflows and other liabilities were primarily affected by pension and other postemployment benefit adjustments necessary to comply with generally accepted accounting principles.

The Olympic Authority's net position at March 31, 2023 was \$409,604,119. This was a \$74,340,839 increase over the 2022 net position of \$335,263,280. The following table provides a summary of the elements of the Olympic Authority's net position:

	<u>2023</u>	<u>2022</u>	<u>Change</u>	<u>Percentage Change</u>
<b>Assets:</b>				
Current assets	\$ 52,555,072	37,241,527	15,313,545	41.12%
Capital assets	443,034,512	386,543,062	56,491,450	14.61%
Net pension asset	<u>6,228,405</u>	<u>-</u>	<u>6,228,405</u>	100.00%
<b>Total assets</b>	<b>501,817,989</b>	<b>423,784,589</b>	<b>78,033,400</b>	<b>18.41%</b>
Deferred outflows of resources	<u>26,102,033</u>	<u>31,178,005</u>	<u>(5,075,972)</u>	<u>(16.28%)</u>
<b>Total assets and deferred     outflow resources</b>	<b><u>527,920,022</u></b>	<b><u>454,962,594</u></b>	<b><u>72,957,428</u></b>	<b>16.04%</b>
<b>Liabilities:</b>				
Current liabilities	12,411,625	11,776,553	635,072	5.39%
Other liabilities	<u>53,002,016</u>	<u>72,776,961</u>	<u>(19,774,945)</u>	<u>(27.17%)</u>
<b>Total liabilities</b>	<b>65,413,641</b>	<b>84,553,514</b>	<b>(19,139,873)</b>	<b>(22.64%)</b>
Deferred inflows of resources	<u>52,902,262</u>	<u>35,145,800</u>	<u>17,756,462</u>	<u>50.52%</u>
<b>Total liabilities and deferred     inflows of resources</b>	<b><u>118,315,903</u></b>	<b><u>119,699,314</u></b>	<b><u>(1,383,411)</u></b>	<b><u>(1.16%)</u></b>
<b>Net position:</b>				
Net invested in capital assets	443,034,512	386,543,062	56,491,450	14.61%
Unrestricted (deficit)	<u>(33,430,393)</u>	<u>(51,279,782)</u>	<u>17,849,389</u>	<u>34.81%</u>
<b>Total net position</b>	<b><u>\$ 409,604,119</u></b>	<b><u>335,263,280</u></b>	<b><u>74,340,839</u></b>	<b>22.17%</b>

Current assets increased \$15,313,545; this was the result of timing differences as to when cash was received and invoices ready for payment.

NEW YORK STATE OLYMPIC REGIONAL  
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Management's Discussion and Analysis, Continued

Capital assets increased \$56,491,450 (net) primarily because the State has made a commitment to provide capital funds to improve the Olympic Authority's facilities. Major projects during 2022/2023 stretched across all venues. Several capital projects over recent years have added value to the Olympic Authority's assets. These projects included the completion of the Olympic Center in November 2023, now featuring modernized refrigeration, extensive renovations of three of four rinks including the iconic James C. Sheffield Speed Skating Oval, and Miracle Plaza which houses beautiful new guest spaces for dining and shopping. To make Miracle Plaza and its new revenue streams possible, administrative staff relocated from office areas previously occupied throughout the Olympic Center into a new building adjacent to the US Olympic Training Center. Snowmaking and lift upgrades continued throughout the Olympic Authority's three alpine ski areas.

Deferred outflows, deferred inflows and other liabilities were primarily affected by pension and other postemployment benefit adjustments necessary to comply with generally accepted accounting principles.

The Olympic Authority's Events

Recent modernizations to the Olympic Authority's venues have spurred active year-round event calendars, including several sanctioned international competitions of the highest level. The venue improvements were designed with an emphasis on resilience and sustainability, to facilitate hosting events even through challenging weather patterns. 2023/2024 was the warmest winter on record in the New York Olympic Region, yet all of the events on the Olympic Authority's schedule were successfully held.

These events, among many others, included the IBSF North American Cup, the Luge World Cup, the USSS Cross-Country Junior National Championships, the IBSF World Cup, the Holeshot Cross Tour, a variety of hockey and figure skating events, and a return of the FIS Ski Jumping World Cup. Mt. Van Hoevenberg will host the IBSF World Championships in March 2025.

Year-round sport amenities including the new biathlon range, paved roller loops, summer surfaces at the jumps, redeveloped rinks, and the indoor push track has transformed the Olympic Authority's ability to host athletes of all levels during all twelve months. The Olympic Jumping Complex is now the only facility in North America homologated for year-round jumping.

These improvements have allowed for increased training year-round, active relationships with the National Governing Bodies of various sports, and an increased level of regional engagement with teams and the sport professionals that support them. This, in combination with a renewed frequency of national and international events, leads to economic benefits for the North Country and New York State.

NEW YORK STATE OLYMPIC REGIONAL  
DEVELOPMENT AUTHORITY

Management’s Discussion and Analysis, Continued

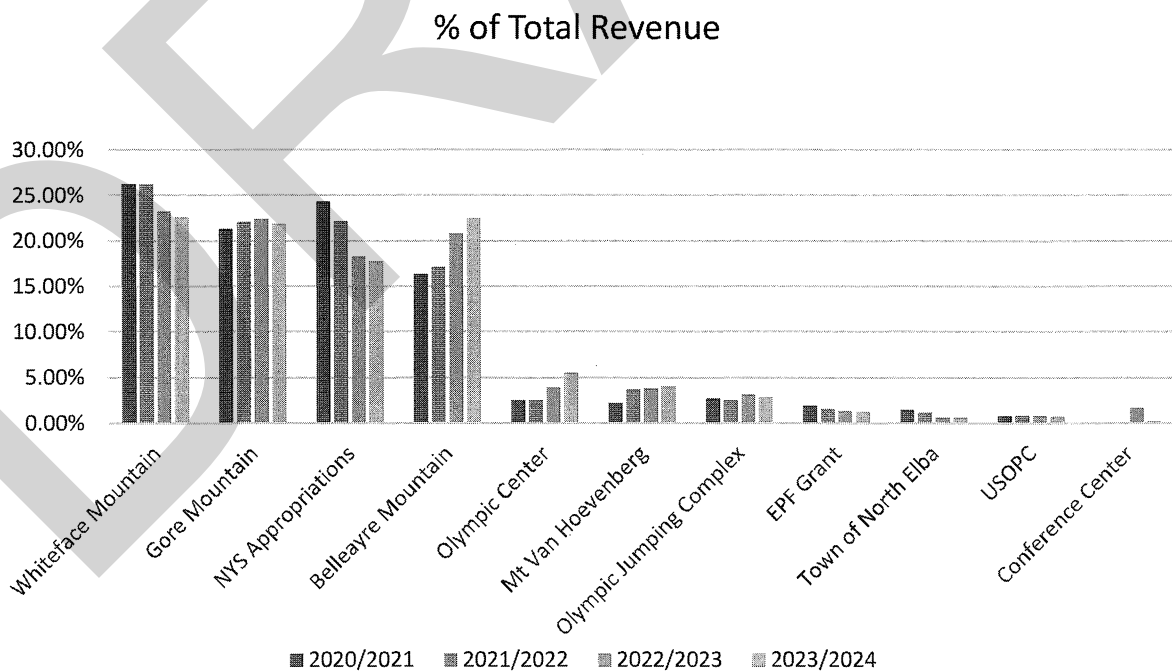
Visitation and Revenue

The Olympic Authority again exceeded one million visits to its venues during the 2023/2024 season. The record-breaking numbers follow the completion of multiple capital projects that upgraded and modernized each of the Olympic Authority’s venues. The improvements made for a stronger guest experience while also making it possible to host year-round activities and major international sporting events. They have also helped to develop the Olympic Authority’s ancillary revenue opportunities, with enhanced shops, modernized rental equipment outlets, and improved foodservice areas.

Season pass sales continue to be a major source of the Olympic Authority’s revenue, with the ski mountains selling over 29,000 passes accounting for over \$13.7 million in revenue. This is an increase of 3,000 over 2022/2023’s record season pass numbers. Season pass investments by the Olympic Authority’s guest are evidence of increased confidence in the ski resorts’ experience due to improved snowmaking systems and snow surfaces, expanded operational seasons, and value-added passholder perks.

Revenue and Expenses

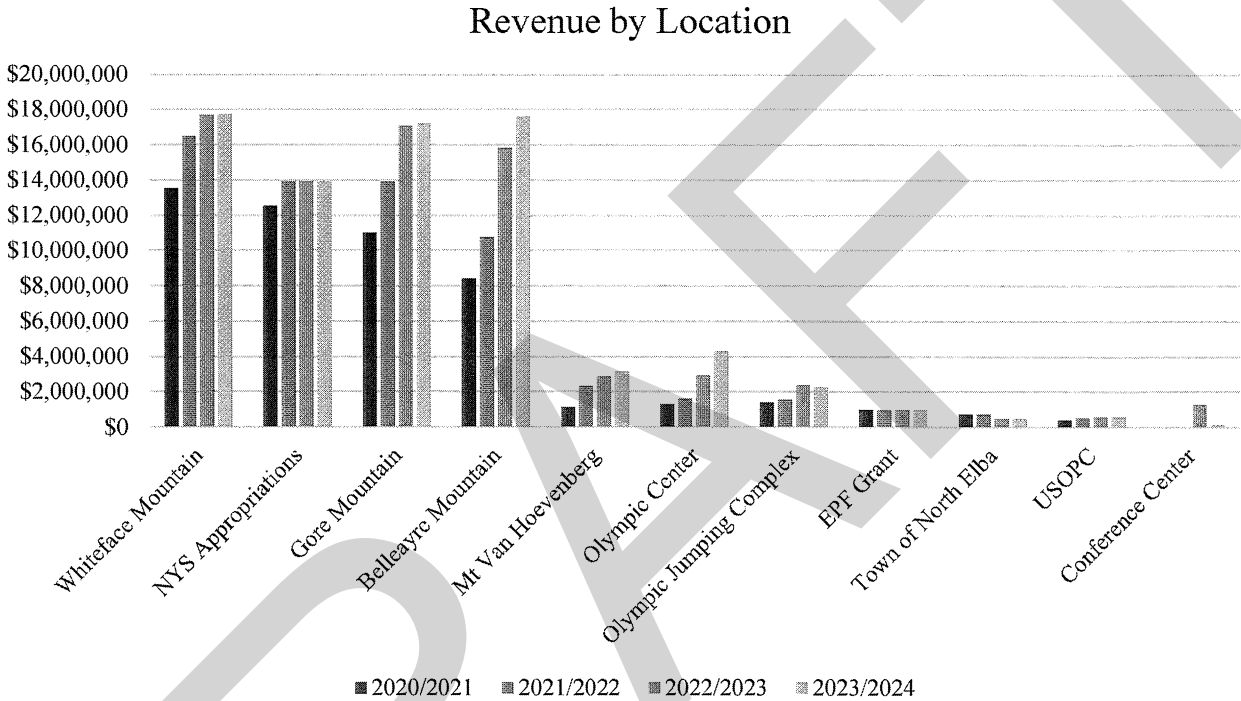
The revenue bar graph below shows that as a percentage of total revenue, the three ski areas continue to be the venues producing the most revenue.



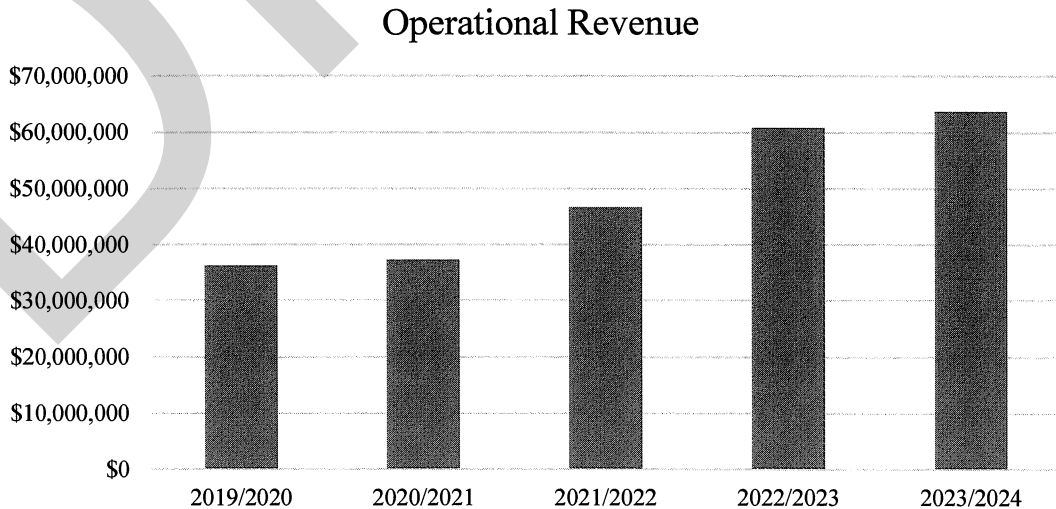
NEW YORK STATE OLYMPIC REGIONAL  
DEVELOPMENT AUTHORITY

Management's Discussion and Analysis, Continued

The next bar graph shows the total revenue dollars by each venue and other support year over year(s).



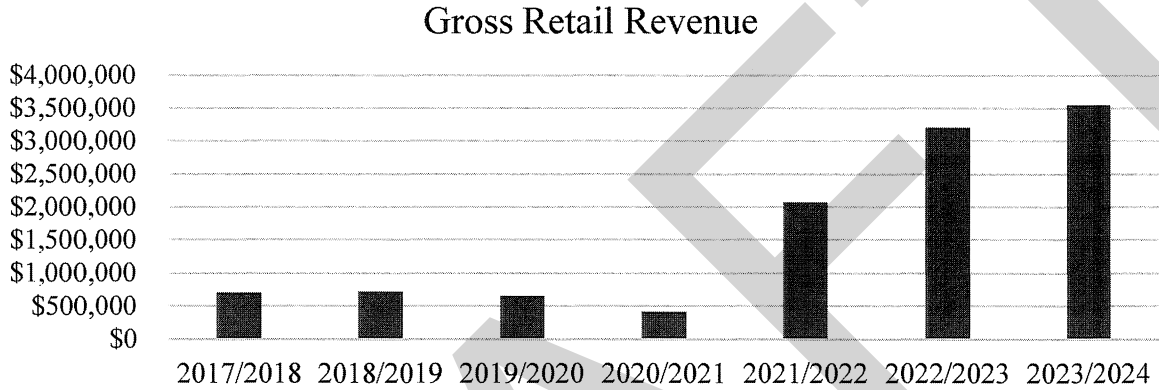
This bar graph below shows the total operational revenue over the last five fiscal years. Please note that this does not include support from the State or the Town.



NEW YORK STATE OLYMPIC REGIONAL  
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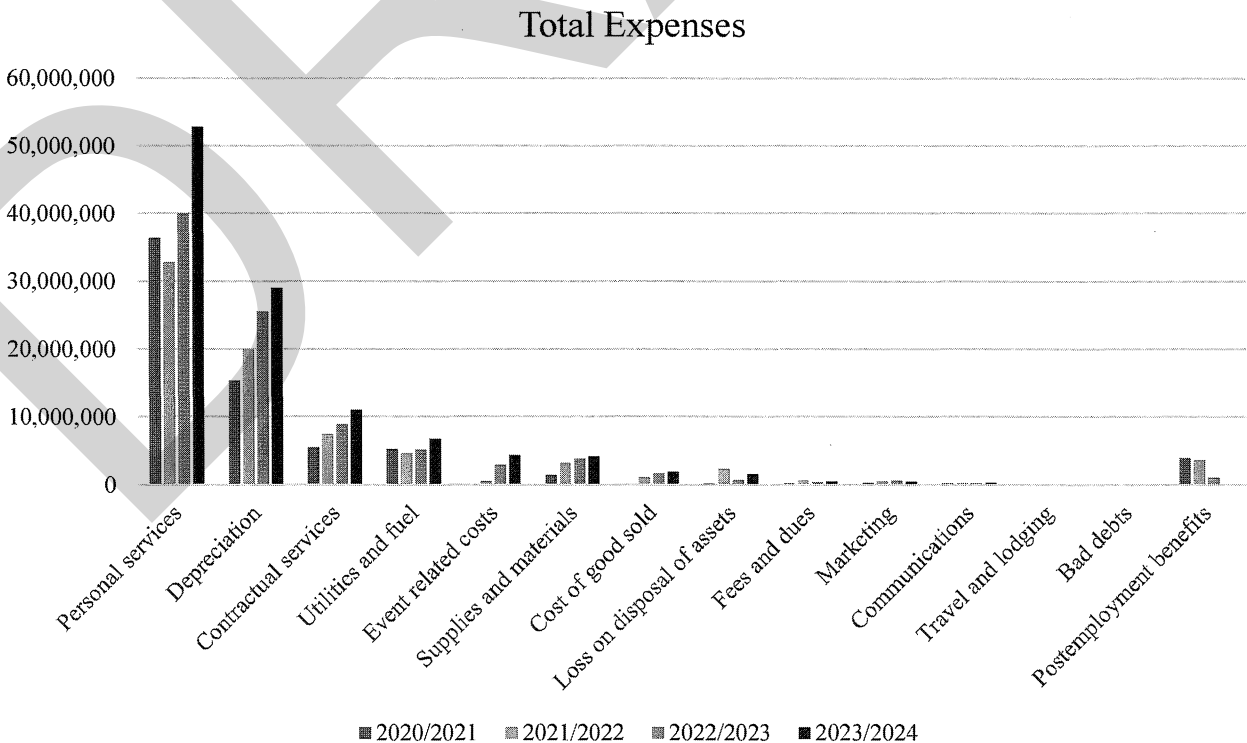
Management’s Discussion and Analysis, Continued

Retail sales have continued to grow over recent years, the graph below represents gross retail revenues.



Total Expenses

The expense by type graph below shows that personal services continues to be the greatest expense. Management works diligently to keep overall expenses down in all categories. Please note while depreciation and other postemployment benefits are shown in this graph, they are for reporting purposes only.



NEW YORK STATE OLYMPIC REGIONAL  
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Management's Discussion and Analysis, Continued

Capital Assets

The Olympic Authority's investment in capital assets, net of accumulated depreciation as of March 31, 2024 and 2023 was \$478,345,261 and \$443,034,512, respectively. The net increase in capital assets at March 31, 2024 was \$35,310,749.

At the ski areas, the Olympic Authority's 2023/2024 capital investments were focused on continued modernizations to the high-efficiency snowmaking systems, pump house improvements, lift replacement and/or upgrades, and a new ski bridge at Belleayre. The Olympic Jumping Complex added a new maintenance garage and improvements to the judge's tower and staging building. Administrative offices were completed at Mt. Van Hoevenberg, Solar facilities were purchased for Gore Mountain and there was continued preservation of the Castle and Roundhouse on the Veterans' Memorial Highway. The organization made strategic investments throughout all venues that advanced its commitment to technology, health and safety, and sustainability.

Long Term Debt

At March 31, 2024 and 2023, the Olympic Authority had zero long term debt.

At March 31, 2024, the Olympic Authority has postemployment benefits obligations of \$39,065,656, net pension liability of \$17,889,969 and compensated absences of \$5,165,850. At March 31, 2023, the Olympic Authority has postemployment benefits obligations of \$48,218,271, no net pension liability and compensated absences of \$4,783,745.

Short Term Debt

The Olympic Authority has a line of credit of \$7 million with no outstanding balance as of March 31, 2024 and 2023. The line of credit had been used in the past for cash flow purposes while the organization is waiting on State budgeted appropriations.

Technology

The Olympic Authority staff has continued its integration of technology to enhance communications and reliability across multiple systems as well as improve the experience of Olympic Authority's internal and external customers. The staff has taken a broader role in the functionality of broadcast, timing, scoring, and results for various events, particularly for high-level international competitions. The team has also continued developing its cybersecurity training and software, accounting and asset management software, on-venue lighting and video capabilities, and snowmaking and refrigeration monitoring systems.

NEW YORK STATE OLYMPIC REGIONAL  
DEVELOPMENT AUTHORITY

Management's Discussion and Analysis, Continued

The Olympic Authority uses an e-commerce platform and RFID access that is integrated with its ticketing system, providing reliable inventory control for the organization and direct-to-lift convenience for customers. The reloadable media cards can be used over several years, reducing waste and allowing for all reservations to be made at home year-round. In addition, analytics software delivers real-time metrics and demographics to staff that aids in operational decision making and business planning. These metrics detail specific products and span multiple departments, including up-to-the-minute information about lift ticket sales, season pass volume, food and beverage performance, and retail shop merchandise.

Economic Environment

Immediate threats within the economic environment include inflation and rising fuel and utility costs, which increase the Olympic Authority's expenses and potentially deter some travelers while reducing their disposable income. While the Olympic Authority will continue tracking its energy use and aggressively pursue the best available electricity contracts, the organization is vulnerable to the volatile pricing of this commodity.

As the Olympic Authority has expanded in size and scope, costs including personal expenses, insurance, and supplies and materials have also maintained an upward trajectory. The Olympic Authority is employing more people and operating for longer seasons. The Olympic Authority will be challenged to control rising expenses where possible while driving revenue growth in order to further offset cost increases.

Looking Ahead

The Olympic Authority is ideally positioned for a vibrant future. Demand for recreation and tourism continues to increase, and the Olympic Authority's modernized venues now appeal to a more diverse range of audiences than ever before. A strong response to the Olympic Authority's summer and fall activities not only improves cash flows and adds to the multi-use nature of the venues, but it ensures future resilience.

Priorities include maintenance of newly renovated facilities so they sustain their value and appeal, as well as continued update of antiquated infrastructure and buildings. In its improvement projects, the Olympic Authority will be integrating its ongoing commitment to sustainability with new EO 22 requirements as applicable.

There are exciting international events scheduled, and the Olympic Authority is actively engaged with governing bodies of sport worldwide.

The Olympic Authority needs to stay focused on the ongoing challenges presented by labor and housing shortages, fluctuating commodity prices, and supply chain disruptions which impact its specialized business segments.

NEW YORK STATE OLYMPIC REGIONAL  
DEVELOPMENT AUTHORITY

Management's Discussion and Analysis, Continued

An ongoing emphasis on the Olympic Authority's responsible financial management strategies will be important to the organization's continued success. These practices have controlled costs, eliminated debt, developed interest revenue, generated net income, and kept operations and projects within budgets.

Contacting the Olympic Authority

This financial report is designed to provide a general overview of the Olympic Authority's finances, comply with related laws and regulations, and demonstrate the Olympic Authority's commitment to public finance accountability. If you have questions about this report or would like to request additional information, contact Ashley Walden, CEO/President at (518) 302-5301.

NEW YORK STATE OLYMPIC REGIONAL  
DEVELOPMENT AUTHORITY

Statements of Net Position  
March 31, 2024 and 2023

Assets	<u>2024</u>	<u>2023</u>
Current assets:		
Cash and equivalents	\$ 41,278,333	33,112,777
Inventory	1,377,497	1,125,277
Investments	7,449,279	11,941,929
Accounts receivable, net	2,506,342	4,212,427
Prepaid expenses	<u>2,351,358</u>	<u>2,162,662</u>
Total current assets	54,962,809	52,555,072
Capital assets, net	478,345,261	443,034,512
Net pension asset	-	<u>6,228,405</u>
Total assets	<u>533,308,070</u>	<u>501,817,989</u>
Deferred outflows of resources:		
Other postemployment benefits	9,181,762	11,441,463
Pension	<u>14,548,390</u>	<u>14,660,570</u>
Total deferred outflows of resources	<u>23,730,152</u>	<u>26,102,033</u>
Liabilities:		
Current liabilities:		
Accounts payable	7,298,556	4,053,729
Accrued liabilities	2,608,322	2,813,630
Advanced collections	<u>4,250,473</u>	<u>5,544,266</u>
Total current liabilities	<u>14,157,351</u>	<u>12,411,625</u>
Other liabilities:		
Accrued compensated absences	5,165,850	4,783,745
Net pension liability	17,889,969	-
Total other postemployment benefits	<u>39,065,656</u>	<u>48,218,271</u>
Total other liabilities	<u>62,121,475</u>	<u>53,002,016</u>
Total liabilities	<u>76,278,826</u>	<u>65,413,641</u>
Deferred inflows of resources:		
Other postemployment benefits	34,566,227	30,381,512
Pension	<u>2,112,621</u>	<u>22,520,750</u>
Total deferred inflows of resources	<u>36,678,848</u>	<u>52,902,262</u>
Net position:		
Net investment in capital assets	478,345,261	443,034,512
Unrestricted (deficit)	<u>(34,264,713)</u>	<u>(33,430,393)</u>
Total net position	<u>\$ 444,080,548</u>	<u>409,604,119</u>

See accompanying notes to financial statements.

NEW YORK STATE OLYMPIC REGIONAL  
DEVELOPMENT AUTHORITY  
Statements of Revenue, Expenses and Changes in Net Position  
Years ended March 31, 2024 and 2023

	<u>2024</u>	<u>2023</u>
Operating revenue:		
Earned revenue	\$ 63,495,016	60,621,373
Sponsorships and in-kind contributions	<u>1,613,465</u>	<u>1,546,667</u>
Total operating revenue	<u>65,108,481</u>	<u>62,168,040</u>
Operating expenses:		
Personal services	52,813,789	40,085,111
Depreciation	29,040,431	25,545,867
Utilities and fuel	6,808,923	5,196,586
Postemployment benefits	(839,469)	1,082,668
Contractual services	11,081,750	8,925,658
Event related costs	4,378,083	2,982,756
Supplies and materials	4,187,916	3,862,067
Marketing	491,865	625,766
Loss on disposal of assets	1,587,512	735,027
Fees and dues	497,408	398,355
Cost of good sold	1,933,207	1,681,289
Communications	322,799	252,271
Travel and lodging	123,038	71,421
Bad debts	<u>49,606</u>	<u>109,606</u>
Total operating expenses	<u>112,476,858</u>	<u>91,554,448</u>
Operating loss	<u>(47,368,377)</u>	<u>(29,386,408)</u>
Non-operating revenues (expenses):		
Appropriations:		
New York State	13,940,000	13,940,000
Town of North Elba	500,000	500,000
Interest income	1,019,376	75,978
Energy curtailment	79,580	67,014
FEMA	-	31,165
Interest expense	-	(10,281)
FISU World University Games reimbursement	175,740	3,165,545
FISU World University Games expenses	<u>(1,233,302)</u>	<u>(1,399,518)</u>
Total non-operating revenues	<u>14,481,394</u>	<u>16,369,903</u>
Loss before capital contributions	<u>(32,886,983)</u>	<u>(13,016,505)</u>
Capital contributions:		
New York State Capital appropriations	66,363,412	86,357,344
Other New York State agency capital appropriations	<u>1,000,000</u>	<u>1,000,000</u>
Total capital contributions	<u>67,363,412</u>	<u>87,357,344</u>
Change in net position	34,476,429	74,340,839
Net position at beginning of year	<u>409,604,119</u>	<u>335,263,280</u>
Net position at end of year	<u>\$ 444,080,548</u>	<u>409,604,119</u>

See accompanying notes to financial statements.

NEW YORK STATE OLYMPIC REGIONAL  
DEVELOPMENT AUTHORITY  
Statements of Cash Flows  
Years ended March 31, 2024 and 2023

	<u>2024</u>	<u>2023</u>
Cash flows from operating activities:		
Cash receipts from customers	\$ 63,857,702	60,436,361
Payments to employees	(45,859,440)	(38,033,486)
Payments to suppliers	<u>(30,231,470)</u>	<u>(29,998,456)</u>
Net cash used in operating activities	<u>(12,233,208)</u>	<u>(7,595,581)</u>
Cash flows from noncapital financing activities:		
Appropriations received from State and Town of North Elba	14,440,000	14,440,000
FISU World University Games reimbursement	175,740	3,165,545
FISU World University Games expense	<u>(1,233,302)</u>	<u>(1,399,518)</u>
Net cash provided by noncapital financing activities	<u>13,382,438</u>	<u>16,206,027</u>
Cash flows from capital and related financing activities:		
New York State and other capital contributions	67,363,412	86,357,344
Additions to property and equipment	(65,938,692)	(82,772,344)
Energy curtailment	79,580	67,014
FEMA	-	31,165
Interest paid on debt	<u>-</u>	<u>(10,281)</u>
Net cash provided by capital and related financing activities	<u>1,504,300</u>	<u>3,672,898</u>
Cash flows from investing activities:		
Interest income	1,019,376	75,978
Purchases of investments	(7,449,279)	(18,915,472)
Sales of investments	<u>11,941,929</u>	<u>6,973,543</u>
Net cash provided by (used in) investing activities	<u>5,512,026</u>	<u>(11,865,951)</u>
Net change in cash and equivalents	8,165,556	417,393
Cash and equivalents at beginning of year	<u>33,112,777</u>	<u>32,695,384</u>
Cash and equivalents at end of year	<u>\$ 41,278,333</u>	<u>33,112,777</u>

(Continued)

See accompanying notes to financial statements.

NEW YORK STATE OLYMPIC REGIONAL  
DEVELOPMENT AUTHORITY  
Statements of Cash Flows, Continued  
Years ended March 31, 2024 and 2023

	<u>2024</u>	<u>2023</u>
Reconciliation of operating loss to net cash used in operating activities:		
Operating loss	\$ (47,368,377)	(29,386,408)
Adjustments to reconcile operating loss to net cash used in operating activities:		
Depreciation	29,040,431	25,545,867
Loss on disposal of assets	1,587,512	735,027
Bad debts	49,606	109,606
Pension items - New York State and Local Employees' Retirement System	3,822,425	(2,335,694)
Other postemployment benefits	(2,708,199)	(1,122,367)
Changes in:		
Inventory	(252,220)	(631,076)
Accounts receivable	1,656,479	(1,290,102)
Prepaid expenses	(188,696)	(142,651)
Accounts payable	3,244,827	(504,145)
Accrued liabilities	(205,308)	34,127
Advanced collections	(1,293,793)	1,105,090
Compensated absences	382,105	287,145
Net cash used in operating activities	<u>\$ (12,233,208)</u>	<u>(7,595,581)</u>

See accompanying notes to financial statements.

NEW YORK STATE OLYMPIC REGIONAL  
DEVELOPMENT AUTHORITY

Notes to Financial Statements

March 31, 2024 and 2023

(1) Summary of Significant Accounting Policies

(a) Reporting Entity

New York State Olympic Regional Development Authority (the Olympic Authority) was created under Title 28 of the Public Authorities Law as a public benefit corporation on June 10, 1981 to operate, manage and maintain the Olympic facilities in and around Lake Placid, New York. The Olympic Authority assumed operation of the facilities at Whiteface Mountain Ski Center and Memorial Highway and the Mount Van Hoevenberg Recreation Area on October 4, 1982 under an agreement with the New York State Department of Environmental Conservation (DEC). The Olympic Authority assumed operation of the arena complex, the speed skating oval and the Interval ski jump complex on October 13, 1982 under agreement with the Town of North Elba, as trustee for Town of North Elba Public Parks and Playground District (Park District). On April 1, 1984, the Olympic Authority entered into an agreement with DEC to operate, manage and maintain Gore Mountain Ski Center (Gore). On April 1, 2012, the Olympic Authority assumed management responsibility of Belleayre Ski Area in Highmont, New York. Belleayre was previously managed by DEC.

(b) Basis of Accounting

The financial statements of the Olympic Authority have been prepared in conformity with accounting principles generally accepted in the United States of America (GAAP) as applied to governmental entities. In accordance with the principles prescribed by the Governmental Accounting Standards Board (GASB), the Olympic Authority's financial statements have been presented as a proprietary fund. All revenues and expenses are recognized on the accrual basis. The Olympic Authority is a discretely presented component unit of New York State and is included in the State's comprehensive annual financial report.

(c) Basis of Presentation

The position of the Olympic Authority and changes therein are classified and reported as follows:

Net investment in capital assets - consists of capital assets, net of accumulated depreciation and reduced by the outstanding balances of related debt obligations of those assets.

Unrestricted net position - reports the balance of net position that does not meet the definition of the above category.

The Olympic Authority has adopted the provisions of GASB Statement No. 34 - "Basic Financial Statements - and Management's Discussion and Analysis - for State and Local Governments" and Statement No. 37 - "Basic Financial Statements - Management's Discussion and Analysis - for State and Local Governments: Omnibus." The two statements require that State and Local governments' financial statements include management's discussion and analysis, government-wide financial statements, fund financial statements, notes to financial statements and required supplementary information. The statements require State and Local governments to report infrastructure assets.

NEW YORK STATE OLYMPIC REGIONAL  
DEVELOPMENT AUTHORITY

Notes to Financial Statements, Continued

(1) Summary of Significant Accounting Policies, Continued

(c) Basis of Presentation, Continued

Private sector standards of accounting and financial reporting issued prior to December 1, 1989, are generally followed to the extent they do not conflict or contradict guidance of the GASB. Governments also have the option of following subsequent private sector guidance for their business-type activities and enterprise funds. The Olympic Authority has elected to not follow subsequent private sector guidance.

(d) Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenue and expenses during the reporting period. Actual results could differ from those estimates.

Significant estimates used in preparing these financial statements include the calculation of compensated absences, the estimated useful lives of property and equipment and the estimated value of the other post-employment benefits obligation.

(e) Cash and Equivalents

The Olympic Authority's cash and equivalents consists of cash on hand and demand deposits with original maturities of three months or less from date of acquisition.

The Olympic Authority's investment policies are governed by NYS statutes and the Olympic Authority's own written investment policy. Authority monies must be deposited in Federal Deposit Insurance Corporation (FDIC)-insured commercial banks or trust companies located within New York State. The Olympic Authority's Director of Finance or designee is authorized to use demand accounts and certificates of deposit. Permissible investments include federal obligations, overnight repurchase agreements, money market accounts, and certificates of deposit issued by approved financial institutions.

Collateral is required for demand and time deposits not covered by the FDIC Insurance. Obligations that may be pledged as collateral are obligations of the United States and its agencies.

Custodial credit risk is the risk that, in the event of a bank failure, the Olympic Authority's deposits may not be returned to it.

At March 31, 2024 and 2023, all of the Olympic Authority's cash and equivalent balances of \$42,230,623 and \$34,604,083, respectively, were either insured by FDIC or collateralized with securities held by the pledging financial institution's trust department in the Olympic Authority's name.

NEW YORK STATE OLYMPIC REGIONAL  
DEVELOPMENT AUTHORITY

Notes to Financial Statements, Continued

(1) Summary of Significant Accounting Policies, Continued

(f) Inventory

Inventory consists of donated or purchased supplies and materials. Purchased inventory is recorded at the lower of cost or market using the first-in first-out basis; donated inventory is recorded at its estimated fair value at the time of donation.

(g) Fair Value Measurements

The Olympic Authority is limited under its investment guidelines to the investment of funds in obligations of the United States of America (United States Government Securities), the State of New York or certificates of deposit. Investments, consisting principally of U.S. Treasury obligations with a remaining maturity of one year or less at the time of purchase, are stated at cost plus accrued interest.

A framework has been established for measuring fair value. That framework provides a fair value hierarchy that prioritizes the inputs to valuation techniques used to measure fair value. The hierarchy gives the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities (Level 1 measurements) and the lowest priority to unobservable inputs (Level 3 measurements). The three levels of the fair value hierarchy are described below:

Level 1 - Inputs to the valuation methodology are unadjusted quoted prices for identical assets or liabilities in active markets that the Olympic Authority has the ability to access.

Level 2 - Inputs to the valuation methodology include:

- Quoted prices for similar assets or liabilities in active markets;
- Quoted prices for identical or similar assets or liabilities in inactive markets;
- Inputs other than quoted prices that are observable for the asset or liability; and
- Inputs that are derived principally from or corroborated by observable market data by correlation or other means.

If the asset or liability has a specified (contractual) term, the level 2 input must be observable for substantially the full term of the asset or liability.

Level 3 - Inputs to the valuation methodology are unobservable and significant to the fair value measurement.

(h) Accounts Receivable

Accounts receivable are stated at their uncollected balance, less an allowance for uncollectible accounts. The Olympic Authority provides for losses on accounts receivable using the allowance method. The allowance is based on experience and other circumstances which may affect the ability of customers to meet their obligations.

NEW YORK STATE OLYMPIC REGIONAL  
DEVELOPMENT AUTHORITY

Notes to Financial Statements, Continued

(1) Summary of Significant Accounting Policies, Continued

(i) Capital Assets

Capital assets are stated at cost. Expenditures for renewals and betterments are capitalized; expenditures for maintenance and repairs are charged to expense as incurred. Depreciation is computed using the straight-line method over the following estimated useful lives:

	<u>Years</u>
Property	20 - 40
Equipment, furniture, and vehicles	3 - 10

(j) Sinking Fund - Capital Repairs and Improvements

Section 2619 of the Public Authorities Law requires the Olympic Authority to establish a sinking fund to provide for capital improvements and major repairs to the Olympic facilities. The law requires, among other things, that not less than twenty-five (25) percent of the net profit from operations in the Olympic Authority's fiscal year shall be deposited into the sinking fund. The Olympic Authority did not have net profits from operations for the years ended March 31, 2024 and 2023 and had no balance in the sinking fund reserve.

In the event of termination of the Olympic Authority, New York State and the Park District each will receive fifty percent of all monies in the sinking fund.

(k) Deferred Outflows and Inflows of Resources

In the statements of net position, in addition to assets, the Olympic Authority will sometimes report a separate section of deferred outflows of resources. This separate financial statement element, deferred outflows of resources, represents a consumption of net position that applies to a future period and so will not be recognized as an outflow of resources (expense/ expenditure) until then. The Olympic Authority has two items that qualify for reporting in this category. The first item is related to pensions. This represents the effect of the net change in the Olympic Authority's proportion of the collective net pension liability (asset) and difference during the measurement period between the Olympic Authority's contributions and its proportionate share of total contributions to the pension systems not included in pension expense, and the contributions to the pension system subsequent to the measurement date. The second item is related to other postemployment benefits. This represents the Olympic Authority's changes of assumptions or other inputs to the health insurance program and contributions to the health insurance program subsequent to the measurement date.

NEW YORK STATE OLYMPIC REGIONAL  
DEVELOPMENT AUTHORITY

Notes to Financial Statements, Continued

(1) Summary of Significant Accounting Policies, Continued

(k) Deferred Outflows and Inflows of Resources, Continued

In the statements of net position, in addition to liabilities, the Olympic Authority will sometimes report a separate section of deferred inflows of resources. The separate financial statement element reflects an increase in net position that applies to future periods. The Olympic Authority will not recognize the related revenue until a future event occurs. The Olympic Authority has two items that qualify for reporting in this category. The first item is related to pensions. This represents the change in the proportion between the Olympic Authority's contributions and the proportionate share of total plan contributions. The second item is related to other postemployment benefits. This represents the change of assumptions or other inputs and the difference between the expected and actual experience related to the health insurance program.

(l) Revenues

Amounts reported as operating revenue are from fees, events, and sponsorship revenues in connection with the Olympic Authority's ongoing operations. The principal operating revenues include activity fees, concession revenues and sponsorships. All revenues not meeting this definition are reported as non-operating.

Event revenues, including sponsorships, are recognized when the related event occurs. General sponsorship agreements are recognized over the period of the contract.

Operating appropriations from New York State and from the Park District are required by statute and are recognized in the fiscal year of appropriation.

Capital appropriations from New York State and New York State Agencies are recognized when received as this funding typically relates to long term projects.

(m) Expenses

Amounts reported as operating expenses are from providing services in connection with the Olympic Authority's ongoing operations. The principal operating expenses of the Olympic Authority include payroll, utilities, depreciation, other postemployment benefits, and contractual services. All expenses not meeting this definition are reported as non-operating.

(n) Vacation Liability

Employees of the Olympic Authority are entitled to paid vacation and paid holidays depending on job classification, length of service and other factors. The accumulation of vacation hours is subject to a 200-hour limit for union employees and a 225-hour limit for non-union management/ confidential employees. Unused holiday time accrues for union employees with out limit. The non-union, management confidential employees do not accrue holiday time. The accrued value of vacation and holiday time and salary related payments at March 31, 2024 and 2023 amounted to \$1,576,069 and \$1,404,436, respectively, is included within accrued liabilities in the statements of net position.

NEW YORK STATE OLYMPIC REGIONAL  
DEVELOPMENT AUTHORITY

Notes to Financial Statements, Continued

(1) Summary of Significant Accounting Policies, Continued

(o) Compensated Absences

Sick days are forfeited upon termination but may be used at retirement to pay health insurance premiums. The Olympic Authority recognizes a liability for vested sick leave for employees who, at the statement of net position date, currently are eligible to convert vested sick leave to the retiree's portion of health insurance premiums as well as other employees who are expected to become eligible in the future to convert such leave.

(p) Retirement Benefits

The Olympic Authority employees participate in the New York State and Local Employees' Retirement System. See note 8 for additional information regarding retirement benefits.

(q) Other Postemployment Benefits

In addition to providing retirement benefits, the Olympic Authority provides postemployment health insurance coverage to its retired employees and their survivors in accordance with the provisions of the employment contracts and policies. Substantially all of these employees may become eligible for these benefits if they reach normal retirement age while working for the Olympic Authority. The Olympic Authority pays a variable percentage of the cost of premiums to an insurance company that provides health care insurance. See note 10 for additional information regarding postemployment benefits.

(r) NYS Capital Appropriations and Grants

The Olympic Authority receives capital appropriations and grants from New York State, New York State agencies and others to fund various capital and other projects related to health and safety, and preservation and improvement of facilities.

(s) Donated Use of Facilities

GAAP requires that the donated use of facilities be recorded as a contribution at its estimated fair value at the time received if the Olympic Authority has a clearly measurable and objective basis for determining the value. The agreement with New York State and the Park District permit the Olympic Authority to use, operate, and maintain the facilities in existence at the Olympic Authority's inception, including the personal property and equipment used solely in connection therewith. The amounts reported as property, plant and equipment in the accompanying statements of net position include only those assets purchased by the Olympic Authority.

Title to facilities and equipment originally owned by New York State and the Park District does not pass to the Olympic Authority. The facilities, equipment and improvements thereto revert back to New York State and the Park District, respectively, at the end of the terms of the agreements. There is no clearly measurable basis for determining the value of the facilities and equipment used by the Olympic Authority and, therefore, the assets and the related depreciation expense or a contribution and related rental expense are not reflected in these financial statements.

NEW YORK STATE OLYMPIC REGIONAL  
DEVELOPMENT AUTHORITY

Notes to Financial Statements, Continued

(1) Summary of Significant Accounting Policies, Continued

(t) Donated Services

During the years ended March 31, 2024 and 2023 the recorded value of donated ski patrol services was \$619,788 and \$593,336, respectively.

(u) Leases and Subscriptions

The Olympic Authority adopted the provisions of GASB statements No. 87 - "Leases" and GASB Statement No. 96 - "Subscription-Based Information Technology Arrangements." The primary objective of these statements is to better meet the information needs of financial statement users by improving accounting and financial reporting for leases and subscriptions by governments. The Olympic Authority has performed an evaluation of its leasing and subscriptions transactions, and determined that the implantation of these statements will have no material impact on the financial statements of the Olympic Authority.

(v) Reclassifications

Reclassifications have been made to certain 2023 balances in order to conform them to the 2024 presentation.

(2) Investments

The cost and fair value of investments (United States Government Securities) held by the Olympic Authority as of March 31, 2024 and 2023 is summarized as follows:

	2024	
	Cost	Fair Value
United States Treasury Bills - Maturing May 14, 2024	\$ <u>7,449,279</u>	<u>7,452,900</u>
	2023	
	Cost	Fair Value
United States Treasury Bills:		
Maturing April 11, 2023	\$ 4,984,428	4,994,950
Maturing May 4, 2023	3,486,114	3,486,070
Maturing June 6, 2023	<u>3,471,387</u>	<u>3,471,775</u>
	\$ <u>11,941,929</u>	<u>11,952,795</u>

The Olympic Authority categorizes its fair value measurements within the fair value hierarchy established by GAAP. The Olympic Authority's policy is to record the U.S. Treasury Notes and Bills at cost plus accrued interest as it intends to hold these securities to maturity.

The Olympic Authority has the following recurring fair value measurements as of March 31, 2024 and 2023:

- U.S. Treasury securities are valued using quoted market prices (Level 1 inputs).

NEW YORK STATE OLYMPIC REGIONAL  
DEVELOPMENT AUTHORITY

Notes to Financial Statements, Continued

(3) Accounts Receivable

Accounts receivable at March 31, 2024 and 2023 consists of the following:

	<u>2024</u>	<u>2023</u>
Trade receivables	\$ 2,456,149	2,479,420
Due from New York State	-	1,920,398
FEMA	245,611	-
FSA receivables	4,992	3,774
Other	<u>3,238</u>	<u>9,764</u>
	2,709,990	4,413,356
Less allowance for doubtful accounts	<u>(203,648)</u>	<u>(200,929)</u>
Accounts receivable, net	\$ <u>2,506,342</u>	<u>4,212,427</u>

(4) Capital Assets

Capital assets consist of the following as of March 31, 2024 and 2023:

	March 31, 2024				
	Balance <u>April 1</u>	<u>Additions</u>	<u>Retirements</u>	<u>Transfers</u>	Balance <u>March 31</u>
Land	\$ 145,000	-	-	-	145,000
Property	456,933,176	-	(1,949,329)	57,853,552	512,837,399
Equipment, furniture and vehicles	124,485,045	-	(2,378,046)	28,760,573	150,867,572
Construction in progress	<u>53,186,104</u>	<u>65,938,692</u>	<u>-</u>	<u>(86,614,125)</u>	<u>32,510,671</u>
Total	634,749,325	65,938,692	(4,327,375)	-	696,360,642
Less accumulated depreciation	<u>191,714,813</u>	<u>29,040,431</u>	<u>(2,739,863)</u>	<u>-</u>	<u>218,015,381</u>
Capital assets, net	\$ <u>443,034,512</u>	<u>36,898,261</u>	<u>(1,587,512)</u>	<u>-</u>	<u>478,345,261</u>
	March 31, 2023				
	Balance <u>April 1</u>	<u>Additions</u>	<u>Retirements</u>	<u>Transfers</u>	Balance <u>March 31</u>
Land	\$ 145,000	-	-	-	145,000
Property	395,640,476	-	(61,347)	61,354,047	456,933,176
Equipment, furniture and vehicles	112,824,440	200,301	(2,654,465)	14,114,769	124,485,045
Construction in progress	<u>46,082,877</u>	<u>82,572,043</u>	<u>-</u>	<u>(75,468,816)</u>	<u>53,186,104</u>
Total	554,692,793	82,772,344	(2,715,812)	-	634,749,325
Less accumulated depreciation	<u>168,149,731</u>	<u>25,545,867</u>	<u>(1,980,785)</u>	<u>-</u>	<u>191,714,813</u>
Capital assets, net	\$ <u>386,543,062</u>	<u>57,226,477</u>	<u>(735,027)</u>	<u>-</u>	<u>443,034,512</u>

NEW YORK STATE OLYMPIC REGIONAL  
DEVELOPMENT AUTHORITY

Notes to Financial Statements, Continued

(5) Advanced Collections

Advanced collections consist of the following as of March 31, 2024 and 2023:

	<u>2024</u>	<u>2023</u>
General and event sponsorships	\$ 260,124	301,402
Advance sales	<u>3,990,349</u>	<u>5,242,864</u>
	<u>\$ 4,250,473</u>	<u>5,544,266</u>

(6) Line of Credit

The Olympic Authority has a \$7,000,000 demand grid note line of credit with Key Bank NA. The agreement stated interest to be paid monthly on outstanding borrowings at PRIME rate plus 2%. The outstanding balance is subject to right of setoff against all deposits held at Key Bank NA. Borrowings on the credit line are used primarily to pay employees and vendors when operating receipts are not sufficient. There was no activity in the years ended March 31, 2024 and 2023.

(7) Long-Term Liabilities

Long-term liability balances and activity for the years ended March 31, 2024 and 2023 are summarized below:

	March 31, 2024					
	<u>Beginning Balance</u>	<u>Additions</u>	<u>Deletions</u>	<u>Ending Balance</u>	<u>Amounts Due Within One Year</u>	<u>Long-term Portion</u>
Compensated absences	\$ 4,783,745	382,105 (a)		5,165,850	-	5,165,850
Net pension liability	-	17,889,969 (a)	-	17,889,969	-	17,889,969
Total other post employment benefits	<u>48,218,271</u>	<u>-</u>	<u>9,152,615</u>	<u>39,065,656</u>	<u>-</u>	<u>39,065,656</u>
<b>Total</b>	<b><u>\$ 53,002,016</u></b>	<b><u>18,272,074</u></b>	<b><u>9,152,615</u></b>	<b><u>62,121,475</u></b>	<b><u>-</u></b>	<b><u>62,121,475</u></b>
	March 31, 2023					
	<u>Beginning Balance</u>	<u>Additions</u>	<u>Deletions</u>	<u>Ending Balance</u>	<u>Amounts Due Within One Year</u>	<u>Long-term Portion</u>
Compensated absences	\$ 4,496,600	287,145 (a)	-	4,783,745	-	4,783,745
Net pension liability	70,727	-	70,727 (a)	-	-	-
Total other post employment benefits	<u>68,209,634</u>	<u>-</u>	<u>19,991,363</u>	<u>48,218,271</u>	<u>-</u>	<u>48,218,271</u>
<b>Total</b>	<b><u>\$ 72,776,961</u></b>	<b><u>287,145</u></b>	<b><u>20,062,090</u></b>	<b><u>53,002,016</u></b>	<b><u>-</u></b>	<b><u>53,002,016</u></b>

(a) Additions and deletions to compensated absences and net pension liability are shown net because it is impractical to determine these amounts separately.

NEW YORK STATE OLYMPIC REGIONAL  
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Notes to Financial Statements, Continued

(8) Pension Plan

(a) New York State and Local Employees' Retirement System

The Olympic Authority participates in the New York State and Local Employees' Retirement System (the ERS or System). This is a cost-sharing multiple-employer retirement defined benefit retirement plan. The System provides retirement benefits as well as death and disability benefits. The net position of the System is held in the New York State Common Retirement Fund (the Fund), which was established to hold all net assets and record changes in plan net position allocated to the System. The Comptroller of the State of New York serves as the trustee of the fund and is the administrative head of the System. System benefits are established under the provision of the New York State Retirement and Social Security Law (RSSL). Once a public employer elects to participate in the System, the election is irrevocable. The New York State Constitution provides that pension membership is a contractual relationship and plan benefits cannot be diminished or impaired. Benefits can be changed for future members only by enactment of a State statute. The Olympic Authority also participates in the Public Employees; Group Life Insurance Plan (GLIP), which provides death benefits in the form of life insurance. The GLIP is included in the State's financial report as a pension trust fund. That report, including information with regard to benefits provided, may be found at [www.osc.state.ny.us/retire/publications/index.php](http://www.osc.state.ny.us/retire/publications/index.php) or obtained by writing to the New York State and Local Retirement System, 110 State Street, Albany, New York 12244.

(b) Funding Policy

The System is noncontributory for the employee who joined prior to July 27, 1976. For employees who joined the System after July 27, 1976, and prior to January 1, 2010, employees contribute 3% of their salary, except that employees in the System for more than 10 years are no longer required to contribute. For employees who joined after January 1, 2010, and prior to April 1, 2012, employees contribute 3% of their salary throughout their active membership. For employees who joined after April 1, 2012, employees contribute 3% of their salary until April 1, 2013, and then contribute 3% to 6% of their salary throughout their active membership. The Comptroller shall certify annually the rates expressed as proportions of payroll of members, which shall be used in computing the contributions required to be made by employers to the pension accumulation fund.

The Olympic Authority is required to contribute at an actuarially determined rate. The required contributions for the current year and two preceding years were:

2024	\$ 2,751,184
2023	2,109,241
2022	2,456,257

The Olympic Authority's contributions made to the System were equal to 100 percent of the contributions required for each year.

NEW YORK STATE OLYMPIC REGIONAL  
DEVELOPMENT AUTHORITY

Notes to Financial Statements, Continued

(8) Pension Plan, Continued

(c) Pension Liabilities (Assets), Pension Expense, and Deferred Outflows of Resources and Deferred Inflows of Resources Related to Pensions

At March 31, 2024, the Olympic Authority reported the following liability (asset) for its proportionate share of the net pension liability (asset) for the System. The net pension liability (asset) was measured as of March 31, 2023 and March 31, 2022. The total pension liability (asset) used to calculate the net pension liability (asset) was determined by an actuarial valuation. The Olympic Authority's proportionate share of the net pension liability (asset) was based on a projection of the Olympic Authority's long-term share of contributions to the System relative to the projected contributions of all participating members, actuarially determined. This information was provided by the System in reports provided to the Olympic Authority.

	<u>2024</u>	<u>2023</u>
Measurement date	3/31/2023	3/31/2022
Net pension liability (asset)	\$ 17,889,969	(6,228,405)
Board's proportion of the System's net pension liability (asset)	0.0834263%	0.0761923%
Changes in proportionate share from prior year	0.007234	0.0051622

For the years ended March 31, 2024 and 2023, the Olympic Authority recognized pension expense of \$6,217,562 and \$249,857, respectively, for the System in the statements of revenue, expenses and changes in net position. At March 31, 2024 and 2023, the Olympic Authority's reported deferred outflows of resources and deferred inflows of resources related to pensions from the following sources:

	<u>March 31, 2024</u>	
	<u>Deferred Outflows of Resources</u>	<u>Deferred Inflows of Resources</u>
Differences between expected and actual experience	\$ 1,905,422	502,418
Changes of assumptions	8,688,523	96,024
Net difference between projected and actual investment earnings on pension plan investments	-	105,103
Changes in proportion and differences between the Olympic Authority's contributions and proportionate share of contributions	1,047,824	1,409,076
The Olympic Authority's contributions subsequent to the measurement date	<u>2,906,621</u>	<u>-</u>
Total	\$ <u>14,548,390</u>	<u>2,112,621</u>

NEW YORK STATE OLYMPIC REGIONAL  
DEVELOPMENT AUTHORITY

Notes to Financial Statements, Continued

(8) Pension Plan, Continued

(c) Pension Liabilities (Assets), Pension Expense, and Deferred Outflows of Resources and Deferred Inflows of Resources Related to Pensions, Continued

	March 31, 2023	
	Deferred Outflows of Resources	Deferred Inflows of Resources
Differences between expected and actual experience	\$ 471,686	611,803
Changes of assumptions	10,394,510	175,396
Net difference between projected and actual investment earnings on pension plan investments	-	20,395,417
Changes in proportion and differences between the Olympic Authority's contributions and proportionate share of contributions	1,188,711	1,338,134
The Olympic Authority's contributions subsequent to the measurement date	2,605,663	-
Total	\$ 14,660,570	22,520,750

The Olympic Authority's contributions subsequent to the March 31, 2024 measurement date will be recognized as a reduction of the net pension liability in the year ending March 31, 2025. Other amounts reported as deferred outflows of resources and deferred inflows of resources related to pension will be recognized in pension expense as follows:

Year ending	
2025	\$ 2,267,614
2026	(1,046,824)
2027	3,494,934
2028	4,813,424
	\$ 9,529,148

(d) Actuarial Assumptions

The total pension liability (asset) as of the measurement date was determined by using an actuarial valuation as noted in the table below, with update procedures used to roll forward the total pension liability to the measurement date. The actuarial valuation used the following actuarial assumptions:

NEW YORK STATE OLYMPIC REGIONAL  
DEVELOPMENT AUTHORITY

Notes to Financial Statements, Continued

(8) Pension Plan, Continued

(d) Actuarial Assumptions, Continued

Measurement date	March 31, 2023
Actuarial valuation date	April 1, 2022
Investment rate of return (net of investment expense, including inflation)	5.9%
Salary increases	4.4%
Inflation rate	2.9%
Cost-of-living adjustments	1.5%

Annuitant mortality rates are based on April 1, 2015 - March 31, 2020 System's experience with adjustments for mortality improvements based on Society of Actuaries' Scale MP-2021.

The actuarial assumptions used in the April 1, 2022 valuation are based on the results of an actuarial experience study for the period April 1, 2015 - March 31, 2020.

The long-term rate of return on pension plan investments was determined using a building-block method in which best-estimate ranges of expected future real rates of return (expected returns, net of investment expense and inflation) are developed for each major asset class. These ranges are combined to produce the long-term expected rate of return by weighting the expected future real rates of return by the target asset allocation percentage and by adding expected inflation. The target allocation and best estimates of arithmetic real rates of return for each major asset class are summarized as follows.

<u>Asset Class</u>	<u>Target Allocation</u>	<u>Long-Term Expected Real Rate of Return *</u>
Asset class:		
Domestic equity	32.0%	4.30%
International equity	15.0%	6.85%
Private equity	10.0%	7.50%
Real estate	9.0%	4.60%
Opportunistic/ARS portfolio	3.0%	5.38%
Credit	4.0%	5.43%
Real assets	3.0%	5.84%
Fixed income	23.0%	1.50%
Cash	<u>1.0%</u>	0.00%
	<u>100.00%</u>	

\*The real rate of return is net of the long-term inflation assumption of 2.5%.

NEW YORK STATE OLYMPIC REGIONAL  
DEVELOPMENT AUTHORITY

Notes to Financial Statements, Continued

(8) Pension Plan, Continued

(e) Discount Rate

The discount rate used to calculate the total pension liability (asset) was 5.9%. The projection of cash flows used to determine the discount rate assumes that contributions from plan members will be made at the current contribution rates and that contributions from employers will be made at statutorily required rates, actuarially determined. Based upon the assumptions, the System's fiduciary net position was projected to be available to make all projected future benefit payments of current plan members. Therefore the long term expected rate of return on pension plan investments was applied to all periods of projected benefit payments to determine the total pension liability(asset).

(f) Sensitivity of the Proportionate Share of the Net Pension Liability to the Discount Rate

The following presents the Olympic Authority's proportionate share of the net pension liability (asset) calculated using the discount rate of 5.9%, as well as what the Olympic Authority's proportionate share of the net pension liability (asset) would be if it were calculated using a discount rate that is 1-percentage point lower 4.9% or 1-percentage point higher 6.9% than the current rate:

	1% Decrease (4.9%)	Current Assumption (5.9%)	1% Increase (6.9%)
Employer's proportionate share of the net pension liability (asset)	\$ <u>43,232,383</u>	<u>17,889,969</u>	<u>(3,286,565)</u>

(g) Pension Plan Fiduciary Net Position

The components of the current-year net pension liability (asset) of all participating employers as of the respective measurement dates, were as follows:

	(Dollars in Millions)	
	<u>2024</u>	<u>2023</u>
Measurement date	3/31/2023	3/31/2022
Employers' total pension liability	\$ 232,627	223,874
Plan fiduciary net position	<u>(211,183)</u>	<u>(232,049)</u>
Employers' net pension liability (asset)	\$ <u>21,444</u>	<u>(8,175)</u>
Ratio of plan fiduciary net position to the employers' total pension liability (asset)	90.78%	103.65%

(h) Contributions to the Pension Plan

Board contributions are paid annually based on the System's fiscal year which ends on March 31<sup>st</sup>. The Olympic Authority's retirement contributions as of March 31, 2024 and 2023 represent the projected employer contribution for the period of April 1, 2023 through March 31, 2024 and April 1, 2022 through March 31, 2023, respectively, based on paid employee wages multiplied by the Olympic Authority's contribution rate, by tier. The Olympic Authority's proportionate share of this amount has been recorded as deferred outflows of resources in the accompanying financial statements.

NEW YORK STATE OLYMPIC REGIONAL  
DEVELOPMENT AUTHORITY

Notes to Financial Statements, Continued

(9) Commitments and Contingencies

(a) Litigation

The Olympic Authority is a defendant in several lawsuits resulting primarily from ski area operations. The damages alleged in these lawsuits total several million dollars. The lawsuits are being defended by the State of New York Office of the Attorney General at no cost to the Olympic Authority. To the extent that the Olympic Authority is not covered by insurance, the Olympic Authority shall be held harmless by New York State for any and all claims for damages or injuries arising out of the operation by the Olympic Authority of any participating Olympic facility owned by New York State. The Olympic Authority purchases commercial insurance coverage to protect against claims arising out of the operation of the Olympic Authority owned facilities.

(b) Risk Management

The Olympic Authority is exposed to various risks of loss related to torts; theft of, damage to, and destruction of assets; errors and omissions; injuries to employees; and natural disasters. The Olympic Authority has purchased commercial insurance for all risk beyond minimal deductible amounts. Settled claims have not exceeded the commercial coverage by any material amounts during the year ended March 31, 2024. There was no reduction in insurance coverage during the year ended March 31, 2024.

(c) Sodexo Live! - the Successor Corporation to Service America Corporation d/b/a Centerplate

On July 16, 2011, the Olympic Authority entered into a concession license agreement with Service America Corporation d/b/a Centerplate, for concessions at the Olympic Authority venues including food, retail, clothing sales, special events catering, ski or skate rental, and locker rentals. Belleayre was added to the contract through a 2013 addendum after the Olympic Authority assumed the responsibility for operation and management of that venue from the DEC. The term of the Olympic Authority's concession contract with Centerplate was through July 15, 2021. The contract was extended through April 30, 2022 (then extended until May 31, 2022). The renewal contract for 2021/2022 was for only food, special events catering, and ski or skate rentals. The Olympic Authority took on self-operating the retail, clothing sales and locker rentals at that time. Effective July 1, 2022, the Olympic Authority entered into a Concession License Agreement with Sodexo Live! for the operation of food and beverage concessions and special events catering at Whiteface Mountain, Gore Mountain, and Belleayre Mountain, and the management of food and beverage services, as well as the right to special events catering at Mt. Van Hoevenberg and the Olympic Center. The Olympic Authority terminated its contract with Levy Premium Foodservice for Mt. Van Hoevenberg by agreement effective June 30, 2022, and Sodexo Live! took over food and beverage service management at Mt. Van Hoevenberg under the terms of the new concession license agreement with the Olympic Authority.

NEW YORK STATE OLYMPIC REGIONAL  
DEVELOPMENT AUTHORITY

Notes to Financial Statements, Continued

(10) Other Postemployment Benefits

(a) Plan Description

The Olympic Authority provides certain health care benefits for retired employees. The Olympic Authority administers this Retirement Benefits Plan (the Retirement Benefits Plan) as a single-employer defined benefit Other Postemployment Benefit Plan (OPEB).

In general, the Olympic Authority provides medical and dental benefits to its retirees. There were approximately 160 and 157 retired employees and spouses receiving benefits as of March 31, 2024 and 2023, respectively. Eligible employees must have had 10 years of service under the New York State and Local Retirement System, of which five such years must have been with the Olympic Authority.

The Retirement Benefits Plan does not issue a standalone financial report since there are no assets legally segregated for the sole purpose of paying benefits under the plan in a trust that meets all of the criteria in GASB Statement No. 75, paragraph 4.

(b) Benefits Provided

The obligations of the Retirement Benefit Plan are established by action of the Olympic Authority. The Olympic Authority contributes the same percentage toward the cost of retirees' health insurance premium as employees' health insurance premium: 75% of the cost for eligible bargaining unit retirees regardless of the type of coverage; 90% of the cost of the individual premium for eligible management retirees; 85% of the cost of multi-person premium for eligible management retirees. Retirees may use accumulated sick leave to off-set their expected contribution toward premium coverage. This effectively results in the Olympic Authority paying 100% of the cost of health insurance premiums for certain retirees (depending on the value of their sick time at the time of retirement). Coverage is provided to surviving spouses for their lifetime. The costs of administering the Retirement Benefits Plan are paid by the Olympic Authority. The Olympic Authority currently contributes enough money to the Retirement Benefits Plan to satisfy current obligations on a pay-as-you-go basis to cover annual premiums. The amount paid during the years ended March 31, 2024 and 2023 was approximately \$1,870,000 and \$2,205,000, respectively.

(c) Employees Covered by Benefit Terms

At March 31, 2024 and 2023, the following employees were covered by the benefit terms:

	<u>2024</u>	<u>2023</u>
Inactive employees or beneficiaries		
currently receiving benefits	160	157
Active employees	<u>320</u>	<u>301</u>
Total participants	<u>480</u>	<u>458</u>

NEW YORK STATE OLYMPIC REGIONAL  
DEVELOPMENT AUTHORITY

Notes to Financial Statements, Continued

(10) Other Postemployment Benefits, Continued

(d) Net OPEB Liability

The Olympic Authority's net OPEB liability was measured as of March 31, 2023. The total OPEB liability used to calculate the net OPEB liability was determined by an actuarial valuation as of April 1, 2022, results were rolled forward to April 1, 2023 with liabilities adjusted for the updated discount rate.

(e) Actuarial Assumptions and Other Inputs

The total OPEB liability in the April 1, 2022 actuarial valuation was determined using the following actuarial assumptions and other inputs, applied to all periods included in the measurement, unless otherwise specified:

Payroll Growth	3.75%
Discount Rate	3.50% as of March 31, 2023, 2.73% as of March 31, 2022
Healthcare Cost Trend Rates	5.80%, decreasing to an ultimate rate of 3.61% in 2060 and thereafter
Dental care	1.90% per year
Share of Benefit-Related Costs	This varies based on the type of plan selected. The Olympic Authority will pay a maximum of 75%.
Cost Method	Entry Age Normal as a Percentage of Payroll

The discount rate was based on the Bond Buyer 20-Bond GO Index as the valuation date, which represents the average of certain general obligation municipal bonds maturing in 20 years and having an average rating equivalent of Moody's Aa2 and Standard & Poor's AA.

Mortality rates were RP-2006 (rates underlying RP-2014) headcount-weighted mortality tables with adjustments for mortality improvements based on Scale MP-2021.

(f) Changes in the Total OPEB Liability

	<u>2024</u>	<u>2023</u>
Total OPEB liability - beginning	\$ <u>48,218,271</u>	<u>68,209,634</u>
Changes for the year:		
Service cost	1,787,494	2,208,357
Interest	1,290,851	1,610,570
Differences between expected and actual experience	(3,057,362)	(11,102,430)
Changes of assumptions	(7,304,868)	(10,502,823)
Benefit payments	<u>(1,868,730)</u>	<u>(2,205,037)</u>
Net change in total OPEB liability	<u>(9,152,615)</u>	<u>(19,991,363)</u>
Total OPEB liability - ending	\$ <u>39,065,656</u>	<u>48,218,271</u>

NEW YORK STATE OLYMPIC REGIONAL  
DEVELOPMENT AUTHORITY

Notes to Financial Statements, Continued

(10) Other Postemployment Benefits, Continued

(g) Sensitivity of the Total OPEB Liability to Changes in the Discount Rate

Changes of assumptions and other inputs reflect a change in the discount rate from 2.73% in 2023 to 3.50% in 2024.

The following presents the total OPEB liability of the Olympic Authority, as well as what the Olympic Authority's total OPEB liability would be if it were calculated using a discount rate that is 1-percentage point lower or 1-percentage point higher than the current discount rate:

	2024		
	1% Decrease (2.50%)	Current Discount (3.50%)	1% Increase (4.50%)
Total OPEB Liability	\$ <u>45,322,151</u>	\$ <u>39,065,656</u>	\$ <u>34,152,631</u>
	2023		
	1% Decrease (1.73%)	Current Discount (2.73%)	1% Increase (3.73%)
Total OPEB Liability	\$ <u>56,388,027</u>	\$ <u>48,218,271</u>	\$ <u>41,757,655</u>

(h) Sensitivity of the Total OPEB Liability to Changes in the Healthcare Cost Trend Rates

The following presents the total OPEB liability of the Olympic Authority, as well as what the Olympic Authority's total OPEB liability would be if it were calculated using healthcare cost trend rates that are 1-percentage point lower or 1-percentage point higher than the current healthcare cost trend rate:

	2024		
	1% Decrease (4.8%)	Healthcare Current Discount (5.8%)	1% Increase (6.8%)
Total OPEB Liability	\$ <u>33,866,937</u>	\$ <u>39,065,656</u>	\$ <u>45,668,368</u>
	2023		
	1% Decrease (4.9%)	Healthcare Current Discount (5.9%)	1% Increase (6.9%)
Total OPEB Liability	\$ <u>41,329,897</u>	\$ <u>48,218,271</u>	\$ <u>56,977,922</u>

NEW YORK STATE OLYMPIC REGIONAL  
DEVELOPMENT AUTHORITY

Notes to Financial Statements, Continued

(10) Other Postemployment Benefits, Continued

(i) OPEB Expense and Deferred Outflows of Resources and Deferred Inflows of Resources  
Related to OPEB

For the years ended March 31, 2024 and 2023, the Olympic Authority recognized OPEB expense of \$839,469 and \$1,082,668, respectively. At March 31, 2024 and 2023, the Olympic Authority reported deferred outflows and inflows of resources related to OPEB from the following sources:

	March 31, 2024	
	Deferred Outflows of Resources	Deferred Inflows of Resources
Difference between expected and actual experience	\$ 3,098,882	13,360,948
Changes of assumptions	<u>6,082,880</u>	<u>21,205,279</u>
Total	\$ <u>9,181,762</u>	<u>34,566,227</u>
	March 31, 2023	
	Deferred Outflows of Resources	Deferred Inflows of Resources
Difference between expected and actual experience	\$ 3,979,246	12,530,915
Changes of assumptions	<u>7,462,217</u>	<u>17,850,597</u>
Total	\$ <u>11,441,463</u>	<u>30,381,512</u>

Amounts reported as deferred inflows of resources related to OPEB will be recognized in pension expense as follows:

<u>Year ending</u>	<u>Amount</u>
2025	\$ (3,917,813)
2026	(3,917,813)
2027	(3,917,813)
2028	(3,637,231)
2029	(3,796,478)
Thereafter	<u>(6,197,317)</u>
	\$ <u>(25,384,465)</u>

NEW YORK STATE OLYMPIC REGIONAL  
DEVELOPMENT AUTHORITY

Notes to Financial Statements, Continued

(11) Subsequent Events

The Olympic Authority has evaluated subsequent events through the date of the report which is the date the financial statements were available to be issued.

(12) Accounting Standards Issued But Not Yet Implemented

GASB has issued the following pronouncements which will be implemented in the years required. The effects of the implementation of these pronouncements are not known at this time.

Statement No. 99 - Omnibus 2022. Certain provisions were effective upon issuance, other provisions are effective for years beginning after June 15, 2022 and years beginning after June 15, 2023.

Statement No. 101 - Compensated Absences. Effective for fiscal years beginning after December 15, 2023.

Statement No. 102 - Certain Risk Disclosures. Effective for fiscal years beginning after June 15, 2024.

NEW YORK STATE OLYMPIC REGIONAL  
DEVELOPMENT AUTHORITY  
Required Supplementary Information  
Schedule of Changes in  
Total OPEB Liability and Related Ratios  
Year ended March 31, 2024

	<u>2024</u>	<u>2023</u>	<u>2022</u>	<u>2021</u>	<u>2020</u>	<u>2019</u>
Total OPEB liability						
Service cost	\$ 1,787,494	2,208,357	2,249,557	1,638,292	1,640,224	1,578,808
Interest	1,290,851	1,610,570	1,539,049	2,188,264	2,234,468	2,384,974
Differences between expected and actual experience	(3,057,362)	(11,102,430)	(908,960)	(3,288,830)	-	8,381,068
Changes of assumptions	(7,304,868)	(10,502,823)	(1,435,967)	11,600,231	(1,642,956)	(13,945,943)
Benefit payments	<u>(1,868,730)</u>	<u>(2,205,037)</u>	<u>(2,067,073)</u>	<u>(2,085,557)</u>	<u>(1,784,902)</u>	<u>(1,375,491)</u>
Net change in total OPEB liability	(9,152,615)	(19,991,363)	(623,394)	10,052,400	446,834	(2,976,584)
Total OPEB liability at beginning of year	<u>48,218,271</u>	<u>68,209,634</u>	<u>68,833,028</u>	<u>58,780,628</u>	<u>58,333,794</u>	<u>61,310,378</u>
Total OPEB liability at end of year	<u>\$ 39,065,656</u>	<u>48,218,271</u>	<u>68,209,634</u>	<u>68,833,028</u>	<u>58,780,628</u>	<u>58,333,794</u>
Covered payroll	<u>\$ 15,838,940</u>	<u>13,834,657</u>	<u>12,711,896</u>	<u>13,355,361</u>	<u>12,940,672</u>	<u>11,087,066</u>
Total OPEB liability as a percentage of covered payroll	246.64%	348.53%	536.58%	515.40%	454.23%	526.14%

Notes to schedule:

(1) Changes of assumptions - Changes of assumptions and other inputs reflect the effects of changes in the discount rate each period. The following are the discount rates used in each period:

<u>2024</u>	<u>2023</u>	<u>2022</u>	<u>2021</u>	<u>2020</u>	<u>2019</u>
3.50%	2.73%	2.40%	2.27%	3.79%	3.89%

(2) This schedule is presented to illustrate the requirement to show information for 10 years. However, until a full 10-year trend is compiled, the Olympic Authority should present information for those years for which information is available.

(3) There are no assets accumulated in a trust that meets the criteria in GASB Statement No. 75, paragraph 4.

NEW YORK STATE OLYMPIC REGIONAL  
DEVELOPMENT AUTHORITY  
Required Supplementary Information  
Schedule of Proportionate Share of the Net Pension Liability (Asset)  
Year ended March 31, 2024

	<u>2024</u>	<u>2023</u>	<u>2022</u>	<u>2021</u>	<u>2020</u>	<u>2019</u>	<u>2018</u>	<u>2017</u>	<u>2016</u>
The Olympic Authority's proportion of the net pension liability (asset)	0.0834263%	0.0761923%	0.0710301%	0.0631552%	0.0561264%	0.0480297%	0.0499538%	0.0509010%	0.0505560%
The Olympic Authority's proportionate share of the net pension liability (asset)	\$ 17,889,969	(6,228,405)	70,727	16,723,858	3,976,724	1,550,133	4,693,767	8,169,798	1,707,916
The Olympic Authority's covered payroll	\$ 23,700,950	20,308,457	16,985,173	17,366,424	15,676,921	13,582,728	12,112,688	12,080,731	15,817,870
The Olympic Authority's proportionate share of the net pension liability (asset) as a percentage of its covered payroll	75.48%	30.67%	0.42%	96.30%	25.37%	11.41%	38.75%	67.63%	10.80%
Plan fiduciary net position as a percentage of the total pension liability (asset)	90.78%	103.65%	99.95%	86.39%	96.27%	98.40%	94.70%	90.70%	97.90%

This schedule is presented to illustrate the requirement to show information for 10 years. However, until a full 10-year trend is compiled, the Olympic Authority should present information for those years for which information is available.

NEW YORK STATE OLYMPIC REGIONAL  
DEVELOPMENT AUTHORITY  
Required Supplementary Information  
Schedule of Pension Contributions  
Year ended March 31, 2024

	<u>2023</u>	<u>2022</u>	<u>2022</u>	<u>2021</u>	<u>2020</u>	<u>2019</u>	<u>2018</u>	<u>2017</u>	<u>2016</u>
Contractually required contribution	\$ 2,751,184	2,109,241	2,456,257	2,302,745	2,129,230	1,910,089	1,769,336	1,875,924	1,968,469
Contribution in relation to the contractually required contribution	<u>(2,751,184)</u>	<u>(2,109,241)</u>	<u>(2,456,257)</u>	<u>(2,302,745)</u>	<u>(2,129,230)</u>	<u>(1,910,089)</u>	<u>(1,769,336)</u>	<u>(1,875,924)</u>	<u>(1,968,469)</u>
Contribution deficiency (excess)	<u>\$ -</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
The Olympic Authority's covered payroll	\$ 23,700,950	20,308,457	16,985,173	17,366,424	15,676,921	13,582,728	12,112,688	12,080,731	15,817,870
Contribution as a percentage of covered payroll	11.61%	10.39%	14.46%	13.26%	13.58%	14.06%	14.61%	15.53%	12.44%

This schedule is presented to illustrate the requirement to show information for 10 years. However, until a full 10-year trend is compiled, the Olympic Authority should present information for those years for which information is available.

**INDEPENDENT AUDITORS' REPORT ON INTERNAL CONTROL OVER  
FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS  
BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED  
IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS**

The Board of Directors  
New York State Olympic Regional  
Development Authority:

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States, the financial statements of New York State Olympic Regional Development Authority (the Olympic Authority), which comprise the statement of net position as of March 31, 2024, and the related statements of revenue, expenses and changes in net position and cash flows for the year then ended, and the related notes to financial statements, and have issued our report thereon dated \_\_\_\_\_, 2024.

**Report on Internal Control Over Financial Reporting**

In planning and performing our audit of the financial statements, we considered the Olympic Authority's internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Olympic Authority's internal control. Accordingly, we do not express an opinion on the effectiveness of the Olympic Authority's internal control.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect and correct, misstatements, on a timely basis. A material weakness is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the Olympic Authority's financial statements will not be prevented, or detected and corrected, on a timely basis. A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses or significant deficiencies may exist that were not identified.

## Report on Compliance and Other Matters

As part of obtaining reasonable assurance about whether the Olympic Authority's financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the financial statements. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under Government Auditing Standards.

### Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the Olympic Authority's internal control or on compliance. This report is an integral part of an audit performed in accordance with Government Auditing Standards in considering the Olympic Authority's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

Williamsville, New York  
, 2024

**REPORT ON INVESTMENT COMPLIANCE WITH SECTION 201.3  
OF TITLE TWO OF THE OFFICIAL COMPILATION OF CODES,  
RULES AND REGULATIONS OF THE STATE OF NEW YORK**

The Board of Directors  
New York State Olympic Regional  
Development Authority:

We have examined the New York State Olympic Regional Development Authority's (the Olympic Authority), a component unit of the State of New York, compliance with Section 201.3 of Title Two of the Official Compilation of Codes, Rules and Regulations of the State of New York during the year ended March 31, 2024. Management is responsible for the Olympic Authority's compliance with those requirements. Our responsibility is to express an opinion on the Olympic Authority's compliance based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and in accordance with standards applicable to attestation engagements contained in Government Auditing Standards issued by the Comptroller General of the United States. Those standards require that we plan and perform the examination to obtain reasonable assurance about whether the Olympic Authority complied, in all material respects, with the specified requirements referenced above. An examination involves performing procedures to obtain evidence about whether the Olympic Authority complied with the specified requirements. The nature, timing, and extent of the procedures selected depend on our judgment, including an assessment of the risks of material noncompliance, whether due to fraud or error. We believe that the evidence we obtained is sufficient and appropriate to provide a reasonable basis for our opinion.

We are required to be independent and to meet our other ethical responsibilities in accordance with relevant ethical requirements relating to the engagement.

Our examination does not provide a legal determination on the Olympic Authority's compliance with specified requirements.

In accordance with Government Auditing Standards, we are required to report certain findings of deficiencies in internal control; instances of noncompliance with provisions of laws, or regulations, contracts or grant agreements; and instances of fraud and abuse that are material to the Olympic Authority's compliance with Section 201.3 of Title Two of the Official Compilation of Codes, Rules and Regulations of the State of New York and any fraud and illegal acts that are more than inconsequential that come to our attention during our examination. We are also required to obtain the views of management of those matters. We performed our examination to express an opinion

on whether the Olympic Authority complied with the aforementioned requirements and not for the purpose of expressing an opinion on the internal control over compliance with those requirements or other matters and accordingly, we express no such opinion. The results of our tests disclosed no matters that required to be reported under Government Auditing Standards.

In our opinion, the Olympic Authority complied, in all material respects, with the requirements of Section 201.3 of Title Two of the Official Compilation of Codes, Rules and Regulations of the State of New York during the fiscal year ended March 31, 2024.

This report is intended solely for the information and use of the Olympic Authority and New York State and is not intended to be and should not be used by anyone other than the specified parties.

Williamsville, New York  
, 2024

## REPORT TO THE BOARD

, 2024

The Board of Directors  
New York State Olympic Regional  
Development Authority:

We have audited the financial statements of New York State Olympic Regional Development Authority (the Olympic Authority) as of and for the year ended March 31, 2024, and have issued our report dated , 2024. Professional standards require that we provide you with information about our responsibilities under auditing standards generally accepted in the United States of America and Government Auditing Standards, as well as certain information related to the planned scope and timing of our audit. We have communicated such information in our engagement letter. Professional standards also require that we communicate to you the following information related to our audit.

### Significant Accounting Policies

Management is responsible for the selection and use of appropriate accounting policies. The significant accounting policies used by the Olympic Authority are described in note 1 to the financial statements. No new material accounting policies were adopted and the application of existing policies was not changed during the year ended March 31, 2024. We noted no transactions entered into by the Olympic Authority during the year for which there is a lack of authoritative guidance or consensus. All significant transactions have been recognized in the financial statements in the proper period.

### Accounting Estimates

Accounting estimates are an integral part of the financial statements prepared by management and are based on management's knowledge and experience about past and current events and assumptions about future events. Certain accounting estimates are particularly sensitive because of their significance to the financial statements and because of the possibility that future events affecting them may differ significantly from those expected.

For the year ended March 31, 2024, we evaluated the key factors and assumptions used to develop the estimate for the purpose of determining its reasonableness in relation to the financial statements taken as a whole.

### Financial Statement Disclosures

The financial statement disclosures are neutral, consistent and clear.

### Difficulties Encountered in Performing the Audit

We encountered no difficulties in dealing with management in performing and completing our audit. Management and accounting personnel were very helpful in assisting us during our audit.

### Corrected and Uncorrected Misstatements

Professional standards require us to accumulate all misstatements identified during the audit, other than those that are clearly trivial, and communicate them to the appropriate level of management. There were no material uncorrected misstatements detected as a result of our audit procedures.

### Disagreements with Management

For purposes of this report, a disagreement with management is a financial accounting, reporting, or auditing matter, whether or not resolved to our satisfaction, that could be significant to the financial statements or the auditors' report. We are pleased to report that no such disagreements arose during the course of our audit.

### Management Representations

We have requested certain representations from management that are included in the management representation letter.

### Management Consultations with Other Independent Accountants

In some cases, management may decide to consult with other accountants about auditing and accounting matters, similar to obtaining a "second opinion" on certain situations. If a consultation involves application of an accounting principle to the Olympic Authority's financial statements or a determination of the type of auditors' opinion that may be expressed on those statements, our professional standards require the consulting accountant to check with us to determine that the consultant has all the relevant facts. To our knowledge, there were no such consultations with other accountants.

Other Audit Findings or Issues

We generally discuss a variety of matters, including the application of accounting principles and auditing standards, with management prior to retention as the Olympic Authority's auditors. The result of those discussions were not a condition to our retention.

Other Matters

We applied certain limited procedures to Management's Discussion and Analysis, the Schedule of Changes in Total OPEB Liability and Related Ratios, the Schedule of Proportionate Share of Net Pension Liability and the Schedule of Pension Contributions, which are required supplementary information (RSI) that supplements the basic financial statements. Our procedures consisted of inquires of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We did not audit the RSI and do not express an opinion or provide any assurance on the RSI.

\* \* \* \* \*

This information is intended solely for the use of the Board of Directors and management of New York State Olympic Regional Development Authority and is not intended to be, and should not be, used by anyone other than these specified parties.

Very truly yours,

EFPR GROUP, CPAs, PLLC

The Board of Directors  
New York State Olympic Regional  
Development Authority:

In planning and performing our audit of the financial statements of the New York State Olympic Regional Development Authority (the Olympic Authority) as of and for the year ended March 31, 2024, in accordance with auditing standards generally accepted in the United States of America, we considered the Olympic Authority's internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Olympic Authority's internal control. Accordingly, we do not express an opinion on the effectiveness of the Olympic Authority's internal control.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements, on a timely basis. A material weakness is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected, on a timely basis.

Our consideration of internal control was for the limited purpose described in the first paragraph and was not designed to identify all deficiencies in internal control that might be material weaknesses. Given these limitations during our audit, we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

This communication is intended solely for the information and use of management, the Board of Directors, others within the Olympic Authority, and is not intended to be, and should not be, used by anyone other than these specified parties.

Williamsville, New York  
, 2024



**NEW YORK STATE OLYMPIC REGIONAL DEVELOPMENT AUTHORITY**

**Resolution #540**

**RESOLUTION COMMITTING CAPITAL AND GRANTING APPROVAL FOR  
THE PRESIDENT & CEO TO ENTER INTO AN AGREEMENT FOR  
THE PURCHASE OF SNOWGROOMING EQUIPMENT**

At a meeting of the Board of Directors of the Olympic Regional Development Authority (Olympic Authority) held on June 26, 2024, the Chair offered the following resolution:

**WHEREAS**, the Olympic Authority desires to enter into a proposed Agreement that calls for the purchase of two (2) snowgrooming machines with accessories (“Snowgrooming Equipment”) from Mohawk Industrial Werks, LLC (the “Agreement”); and

**WHEREAS**, the Agreement includes the purchase of the Snowgrooming Equipment consisting more particularly of the following:

- One (1) 2024/25 PistenBully 600 Polar W (520 HP) Snowgroomer fully equipped for and including Winch 4.6+ at the price of \$591,800.00; and
- One (1) 2024/25 PistenBully 600 Polar W (520 HP) Snowgroomer fully equipped for Winch 4.6+ but excluding Winch 4.6+ at the price of \$525,500; and

**WHEREAS**, following an Invitation for Bids posted on the New York State Contract Reporter (“NYSCR”), Mohawk Industrial Werks, LLC submitted a bid that met the Olympic Authority’s specifications and requirements as prescribed in the NYSCR posting; and

**WHEREAS**, Mohawk Industrial Werks, LLC was determined to be the lowest responsible bidder; and

**WHEREAS**, the purchase of the Snowgrooming Equipment is part of a continuing effort to provide upgrades and improvements to the Olympic Authority facilities, which include increasing energy efficiency and reducing emissions; and

**WHEREAS**, pursuant to the terms of the Agreement, the total lump sum value of the Snowgrooming Equipment will be \$1,117,300.00; and

**WHEREAS**, the President & CEO has requested that the Authority commit the requisite capital for the purchase of the Snowgrooming Equipment so as to enable entry into the Agreement; and

**WHEREAS**, pursuant to the Olympic Authority’s By-Laws, Art. VI § 2, which requires that the President & CEO obtain Board approval prior to entering into contracts, the value of which will be in excess of \$250,000.00 or more over the life of the contract, the President & CEO has requested authority to enter into the proposed Agreement;

**NOW, THEREFORE, BE IT RESOLVED**, that the Board of Directors hereby authorizes the President & CEO to invest the necessary capital for the purchase of the Snowgrooming Equipment as is described more fully herein; and

**BE IT FURTHER RESOLVED** that the Board of Directors hereby authorizes the President & CEO to enter into the proposed Agreement under the circumstances and upon the terms and amount provided for herein.

**SO RESOLVED,**

MOVED BY: \_\_\_\_\_

SECONDED BY: \_\_\_\_\_

and

ADOPTED BY the following vote:

In Favor:	Excused/Abstained:	Against:
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

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

The above Resolution #540 was duly passed by the Board of Directors on June 26, 2024.

Signature \_\_\_\_\_

Title: Secretary to the Board of Directors

Sworn to before me this \_\_\_\_\_ day of June, 2024.

\_\_\_\_\_  
Notary Public, State of New York