



**Board of Correction  
City of New York**

**CAPA REGULATORY AGENDA FY 2019  
BOARD OF CORRECTION**

Pursuant to section 626 of the New York City Charter, the New York City Board of Correction (the “Board”) sets forth its regulatory agenda for the City’s fiscal year 2019:

1. **SUBJECT:** Amendments to the variance process.
  - A. **Reason:** Currently, the Minimum Standards contain four separate chapters (Correctional Facilities, Mental Health, Health Care, and Elimination of Sexual Abuse and Sexual Harassment in Correctional Facilities), with each chapter containing its own variance section. These four variance sections are substantially similar, but not identical, and have led to confusion and inefficiency. The proposed amendments would create new variance procedures that would apply uniformly to all four chapters of the Board’s rules.
  - B. **Anticipated Contents:** Repeal of certain rules in the four Chapters and their replacement with a new Chapter containing variance provisions that would apply uniformly to all four chapters of the Minimum Standards.
  - C. **Objective:** Eliminate confusion in and streamline the process pursuant to which DOC and the relevant Correctional Health Authority would apply for variances from existing rules and the Board would determine these applications.
  - D. **Legal basis:** Section 626(e) of the New York City Charter.
  - E. **Types of individuals and entities likely to be affected:** All incarcerated people in the custody of DOC (“incarcerated people”), DOC, and the relevant Correctional Health Authority.
  - F. **Other relevant laws:** None.
  - G. **Approximate Schedule:** Third Quarter of FY 2019.

Agency contact: Michele M. Ovesey (General Counsel) (212-669-7984)

2. **SUBJECT:** Expansion of the Board’s rules, set forth in Chapter 1 of Title 40 of the Rules of the City of New York (“Minimum Standards-Correctional Facilities”), concerning “the care, custody, correction, treatment, supervision, and discipline of all persons held or confined under the jurisdiction of” the New York City Department of

Correction (“DOC”) and, in particular, incarcerated people who are placed in restrictive housing.<sup>1</sup>

- A. Reason: The current Chapter 1 rules do not detail the due process and other protections afforded incarcerated people in connection with their placement in restrictive housing where the way they would access programs and other services is altered as compared to those incarcerated in the general population. The proposed rules would incorporate these additions.
- B. Anticipated contents: Amendments to Chapter 1: Minimum Standards-Correctional Facilities.
- C. Objectives:
  - (i) The current rules neither define nor categorize the various forms of restrictive housing in which incarcerated people may be placed. Such definitions and categorization are required to ensure that due process and other protections are afforded to all incarcerated people in connection with their placement in restrictive housing.
  - (ii) The current rules do not specify the due process or other protections to be afforded incarcerated people with respect to their placement in restrictive housing. The proposed rules are not intended to alter a general due process mandate in the current rules, but rather, to detail what due process and other protections incarcerated people are entitled to receive in connection with DOC’s determination of their placement in restrictive housing.
  - (iii) The current rules do not specify what restrictions, if any, apply to incarcerated people placed in each type of restrictive housing, except for incarcerated people placed in punitive segregation or Enhanced Supervision Housing (ESH). The proposed rules would specify what, if any, restrictions apply to such incarcerated people.
- D. Legal Basis: Section 626(e) of the New York City Charter.
- E. Types of individuals and entities likely to be affected: All incarcerated people, DOC, and the relevant Correctional Health Authority.
- F. Other relevant laws: None.
- G. Approximate Schedule: Fourth Quarter of FY 2019.

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<sup>1</sup> An example of a “restrictive housing area” is a housing area where access to mandated programs and services is restricted to ensure the safety and security of incarcerated persons and staff in the jails; for example, law library services are brought to the incarcerated person in his housing area as opposed to his traveling outside his housing area to access these services.

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3. **SUBJECT**: Updating of the rules contained in Chapter 2: “Mental Health Minimum Standards”
  - A. The current mental health rules have not been updated since they were first enacted in 1985, over 30 years ago. In that time, significant changes have been made in policies and procedures pursuant to which the relevant Correctional Health Authority delivers mental health services to incarcerated people and pursuant to which DOC ensures that incarcerated people receive these services.
  - B. Anticipated contents: Amendments to the current mental health rules to reflect the relevant Correctional Health Authority’s and DOC’s policies and procedures regarding the provision of mental health care to incarcerated people and current correctional best practices for the delivery of mental health care services.
  - C. Objective: Propose mental health rules that incorporate the relevant Correctional Health Authority’s and DOC’s policies and procedures regarding the provision of mental health care to incarcerated people and current correctional best practices in this area.
  - D. Legal Basis: Section 626(e) of the New York City Charter.
  - E. Types of individuals and entities likely to be affected: All incarcerated people, DOC, and the relevant Correctional Health Authority.
  - F. Other Relevant Laws: None.
  - G. Approximate Schedule: Fourth Quarter of FY 2019.

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