

**ANTICIPATED CAPA REGULATORY AGENDA FY 2020  
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 (“CFY”) 2020:

1. **SUBJECT:** A new Chapter of Board Rules (“Minimum Standards”) containing 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 current and future 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 current and future 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 the New York City Department of Correction (DOC) (“people in custody”), DOC, and the relevant Correctional Health Authority.
  - F. **Other relevant laws:** None.
  - G. **Approximate Schedule:** Fourth Quarter of CFY 2020.

Agency contact: Michele M. Ovesey (General Counsel) (212-669-7984) or Kate McMahon (Deputy General Counsel) (212-669-7994).
2. **SUBJECT:** A new Chapter of Board rules concerning restrictive housing in the City’s correctional facilities.<sup>1</sup>

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<sup>1</sup> An example of a “restrictive housing” is a housing unit 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

- A. Reason: People in custody who are placed in restrictive housing units are often subject to conditions that differ from those in general population; relatedly, people housed in these units do not always have the same access to programs and services. The proposed rules would clearly define different categories of restrictive housing and their attendant restrictions, as well as clarify the procedural due process protections afforded to those who are placed in such units.
- B. Anticipated contents: Repeal of sections in Chapter 1 regarding Enhanced Supervision Housing (ESH) and Punitive Segregation, and the incorporation of portions of those sections into a new Chapter addressing these and other types of restrictive housing.
- C. Objectives:
  - (i) The proposed rules will define and categorize various types of restrictive housing to ensure that procedural due process and other protections are afforded to all people in custody in connection with their placement in restrictive housing.
  - (ii) The proposed rules will detail what procedural due process and other protections people in custody are entitled to receive in connection with DOC's determination of their placement in restrictive housing.
  - (iii) The proposed rules would specify what, if any, restrictions apply to people in custody who are housed restrictive housing units.
- 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: Third Quarter of CFY 2020.

Agency Contact: Michele M. Ovesey, General Counsel (212-669-7984) or Kate McMahon, Deputy General Counsel (212-669-7994)

- 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, there have been significant

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library services are provided to people in custody in their housing unit as opposed to receiving them in the facility's law library.

changes to the way the Correctional Health Authority and DOC coordinate the delivery of mental health services to incarcerated people.

- 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 2020.

Agency Contact: Michele M. Ovesey, General Counsel (212-669-7984) or Kate McMahon (212-669-7994).