



Jennifer Jones Austin, Chair
Stanley Richards, Vice-Chair
Marco Carrion
Robert L. Cohen, M.D.
Felipe Franco
James Perrino
Steven M. Safyer, M.D.
Jacqueline Sherman

BOARD OF CORRECTION
CITY OF NEW YORK
1 CENTRE STREET, RM 2213
NEW YORK, NY 10007
212 669-7900 (OFFICE)
212 669-7980 (FAX)

Margaret Egan
Executive Director

Record of Variance Action for January 12, 2021 Public Meeting

This variance allows the Department of Correction (“Department”) to house people ages 19-21 with people over the age of 21. Additionally, the variance allows the Department to house people age 18 with people over the age of 21 in New Admission quarantine housing (during the COVID-19 emergency) and at Rose M. Singer Center.

Type of Variance: Limited

Date on which variance will commence: January 17, 2021

Time period, if any: Two months, ending March 17, 2021

Minimum Standard for which Variance is Granted: 1-02(c)(1)

Date on which Board of Correction first approved variance (for renewals only):
September 8, 2015

Requirements imposed as conditions on variance:

1. The Department shall house young adults (ages 19 through 21) separately and apart from adults (ages 22 and over) in young adult-only housing units unless the young adult:
 - a. Is housed in a restrictive housing area with less than 14 hours lock-out (e.g., ESH);
 - b. Has engaged in violent or assaultive behavior towards staff or other people in custody;
 - c. Has engaged in actions that threaten the safety and security of the facility;

- d. Qualifies for protective custody and cannot safely be housed in a young adult protective custody unit;
 - e. Is being quarantined as part of the new admission process during the COVID-19 emergency;
 - f. Has applied and been accepted into the Special Considerations Unit;
 - g. Has a centrally monitored case; or
 - h. Is a young adult housed at the Rose M. Singer Center (RMSC).
2. The Department shall apply the factors enumerated in condition no. 1(a) through (h) of this variance on a case-by-case basis and shall place a young adult in housing with adults (“commingled housing”) only upon an individual determination that the young adult meets at least one of criteria set forth in condition no. 1 of this variance (“commingling determination”).
3. The Department shall house male young adults only in the Robert N. Davoren Center (RNDC) unless the young adult is housed in accordance with exceptions enumerated in condition no.1 (a) and 1(d) through (g) of this variance.
4. The Department shall develop an individualized behavioral support plan for each young adult in commingled housing.
5. All young adults in commingled housing shall have access to young adult programming and supports. Young adults commingled pursuant to condition 1(b) and 1(c) shall have access to the Peace Center at RNDC.
6. The Department shall consult with Correctional Health Services programming and mental health staff prior to making each commingling determination.
7. The Department shall notify each young adult, in writing, of his or placement in commingled housing. Such notice shall be served upon the young adult within forty-eight (48) hours of such determination and shall specify the criteria (listed in condition no. 1(a)-(h) above) and the young adult’s conduct upon which such determination is based. The young adult shall sign the notice indicating his receipt thereof or, if the young adult refuses to sign, staff serving the notice shall indicate on the notice the person’s refusal to sign. This requirement shall not apply to young adults commingled in new admission, quarantine housing during the COVID-19 emergency.
8. The Department shall document each commingling determination in writing, which shall:
 - (a) Specify which of the criteria enumerated in condition no. 1(a)-(h) of this variance form the basis for housing the young adult in commingled housing;

- (b) Describe in detail the young adult's conduct, including the date, time, and place of such conduct, that resulted in the determination to house the young adult in commingled housing, if applicable.
 - (c) Include the young adult's individual behavioral support plan and all COD's and Incident Reports or other documentations supporting the determination;
 - (d) Indicate how the placement is consistent with or will promote the goals of the young adult's individual behavioral support plan.
 - (e) State what other young adult housing units were considered for placement of the young adult and the reasons why the young adult was not placed there.
 - (f) The requirements for condition no. 8(b)-(e) shall not apply to determinations made for young adults meeting criteria for condition no. 1(e).
9. The Department shall send the Board a bi-weekly report of all commingling determinations, including the reason for the determination and all supporting documentation.
10. During the pendency of this variance, the Department shall provide the Board with a weekly census showing (a) in which housing units and facilities young adults ages 18 through 21 are housed; and (b) the number of young adults who, during that week, were moved from commingled to young adult-only housing.
11. The Department shall continue to (a) provide the Board with a monthly progress report on its implementation of the Young Adult Plan and implementation of alternatives to punitive segregation (i.e., Second Chance, TRU and Secure Units); and (b) provide its progress report for each month on the tenth business day of the following month.