

NEW YORK CITY MAYOR'S OFFICE OF MEDIA AND ENTERTAINMENT

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The Mayor's Office of Media and Entertainment ("MOME") is proposing to amend its press credentials rules to (a) include a minimum age requirement for eligibility to receive a Standard Press Card or a Reserve Press Card, (b) require consent from a parent or legal guardian for applicants under eighteen years old who are seeking to pre-register for or receive a Single Event Press Card, and (c) require a parent, legal guardian, or responsible adult to accompany a Single Event Press Card holder who is under eighteen years old during the entirety of a Single Event. MOME is also proposing to amend its rule setting forth the criteria for denial of an application for a press credential and to allow alternative methods for returning a Single Event Press Card.

When and where is the Hearing? MOME will hold a public hearing, at which the public and interested parties are invited to submit comments and testimony on the proposed rule at **3:00 p.m. on March 20, 2024**. The public hearing will be accessible by phone and video conference.

To participate in the public hearing via phone, please dial (646) 931-3860.

- Meeting ID: 849 5121 4635
- Passcode: 361535

To participate in the public hearing via videoconference, please follow the online link:

<https://us06web.zoom.us/j/84951214635?pwd=chN6WYRnfb18tu4C2SexR4T0eNvnGm.1>

- Meeting ID: 849 5121 4635
- Passcode: 361535

How do I comment on the proposed rule revisions? Anyone can comment on the proposed rules by:

- **Website.** You can submit comments to MOME through the NYC rules Website at www.nyc.gov/nycrules.
- **Email.** You can email written comments to MOME at lbarrett-peterson@media.nyc.gov.
- **Mail.** You can mail written comments to MOME at 1 Centre Street, 27th Floor; New York, NY 10007 c/o General Counsel.
- **By Speaking at the Hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by sending an email to lbarrett-peterson@media.nyc.gov by **March 19, 2024**. (Please include your name and affiliation in the email). While you will be given the opportunity during the

hearing to indicate that you would like to provide comments, we prefer that you sign up in advance. You can speak for up to three minutes.

Is there a deadline for submitting written comments? Yes, you must submit written comments on or before **11:59 p.m. on March 20, 2024.**

What if I need assistance to participate in the Hearing? You must tell MOME if you need a reasonable accommodation of a disability at the Hearing, such as an American Sign Language interpreter. You can tell us by contacting MOME's disability services facilitator, Lori Barrett-Peterson, by email at DisabilityServices@media.nyc.gov or 212-602-7418. Advance notice is requested to allow sufficient time to arrange the accommodation. Please contact us by **3:00 p.m. on March 15, 2024.**

Can I review the comments made on the proposed rules? A few days after the hearing, a summary of the oral comments delivered at the hearing and copies of the written comments will be available to the public on MOME's website.

What authorizes MOME to promulgate this rule revision? Sections 389(b) and 1043 of the City Charter and section 3-119.4 of the City Administrative Code authorize MOME to issue this proposed rule. This rule was included in MOME's regulatory agenda.

Where can I find MOME's rules? MOME's rules are found in Title 43 of the Rules of the City of New York.

What laws govern the rulemaking process? MOME must meet the requirements of section 1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of section 1043(b) of the City Charter.

STATEMENT OF BASIS AND PURPOSE OF PROPOSED RULES

The Mayor's Office of Media and Entertainment ("MOME") is responsible for issuing New York City's press credentials to eligible members of the press and newsgathering organizations. A press credential or "press card" allows a press card holder, subject to space limitations and safety and evidence preservation concerns, to: (1) cross police, fire lines, or other restrictions, limitations, or barriers established by the City at emergency, spot, or breaking news events and public events of a non-emergency nature, and (2) attend City-sponsored events that are open to members of the press.

To reflect the City's ongoing commitment to the safety and wellbeing of New Yorkers while also supporting a free and independent press, MOME is proposing to amend its press credentials rules to:

- Include a minimum age requirement for eligibility to receive a Standard Press Card or a Reserve Press Card. Specifically, MOME's proposed amendments would require an individual to be at least 18 years old to be eligible for a Standard Press Card or to be an authorized user of a Reserve Press Card.
- Require a parent or legal guardian to provide their consent in writing for applicants who are under 18 years old and who are seeking to pre-register for or receive a Single Event Press Card. The amendments would also require that such applicants may apply for Single Event Press Cards that provide access only to public events of a non-emergency nature or events sponsored by the City of New York that are open to members of the press.
- Require a parent, a legal guardian, or a responsible adult to accompany a Single Event Press Card holder who is under 16 years old during the entirety of the event for which the Single Event Press Card has been issued, even after access to the event has been granted. The proposed amendments also provide that the Commissioner or the Commissioner's designee, in their discretion, may waive such requirement, or may impose such requirement for Single Event Press Card holders who are from 16 until 18 years old.

MOME is also proposing to amend its rules setting forth the criteria for denial of an application for a press credential and the criteria for suspension of a press credential. The proposed amendments would (1) align the criteria for denial of an application with the criteria for suspension of a press credential, (2) eliminate redundant rule clauses by recognizing that a guilty plea constitutes a conviction (3) authorize MOME to suspend a press card for the misuse or misrepresentation of any press card issued by the City of New York, and (4) authorize MOME to seek suspension of a Reserve Press Card(s) if a newsgathering organization issues the Reserve

Press Card(s) to an individual who does not meet all criteria required to receive a Reserve Press Card.

MOME is also proposing to amend its rule regarding the return of expired Single Event Press Cards. The current rule requires a Single Event Press Card holder to return an expired card in person. The proposed amendment would allow the individual to return the card in person, by mail, or by courier or delivery service.

Sections 389(b) and 1043 of the New York City Charter and section 3-119.4 of the Administrative Code of the City of New York authorize MOME to propose this rule.

Proposed Rule Amendments

“Shall” and “must” denote mandatory requirements and may be used interchangeably unless otherwise specified or unless the context clearly indicates otherwise.

New material is underlined.

[Deleted material is in brackets.]

Section 1. Section 16-02 of Chapter 16 of Title 43 of the Rules of the City of New York is amended by adding a new paragraph (d), to read as follows:

§ 16-02 Press Card Access.

- (d) A Single Event Press Card holder who is under sixteen (16) years old must be accompanied by a parent, a legal guardian, or a responsible adult who is at least eighteen (18) years old (i) when seeking to cross police or fire lines, or other restrictions, limitations, or barriers established by the City of New York or attend events sponsored by the City of New York; and (ii) at all times after such access has been granted. In the discretion of the Commissioner or the Commissioner’s designee, the Mayor’s Office of Media and Entertainment may:
- i. waive this requirement for a Single Event Press Card holder who is under sixteen (16) years old; or
 - ii. require a Single Event Press Card holder who is over sixteen (16) years old and is under eighteen (18) years old to be accompanied by a parent, a legal guardian, or a responsible adult who is at least eighteen (18) years old (i) when seeking to cross police or fire lines, or other restrictions, limitations, or barriers established by the City of New York or attend events sponsored by the City of New York; and (ii) at all times after such access has been granted.

§ 2. Subdivision (a) of Section 16-03 of Chapter 16 of Title 43 of the Rules of the City of New York is amended to read as follows:

§ 16-03 Standard Press Card.

- (a) To be eligible for a Standard Press Card, an individual must be a member of the press who is at least eighteen (18) years old and who covers, in person:
 - i. emergency, spot, or breaking news events, or public events of a non-emergency nature where police or fire lines, or other restrictions, limitations, or barriers established by the City of New York have been set up for security or crowd control purposes; or
 - ii. events sponsored by the City of New York that are open to members of the press.

§ 3. Subdivisions (g) and (h) of Section 16-04 of Chapter 16 of Title 43 of the Rules of the City of New York are amended to read as follows:

§ 16-04 Reserve Press Card.

- (g) An [editor or supervising employee] authorized representative of a newsgathering organization must appear in person to pick up the Reserve Press Card(s) if the application is approved. If the newsgathering organization was issued a Reserve Press Card(s) during the previous cycle, it must surrender all such card(s) in person to MOME. If such card(s) was lost or stolen, it must provide a Verification of Crime/Lost Property Report issued by the NYPD.
- (h) [Any editor or supervising employee of a] The newsgathering organization holding a Reserve Press Card(s) may provide a Reserve Press Card to an individual who is a member of the press employed or engaged by the newsgathering organization if:
 - i. such individual does not already have a Standard Press Card issued in accordance with § 16-03 of this chapter;
 - ii. such individual is not currently subject to a period of suspension or revocation of a Standard Press Card or Single Event Press Card, or such individual's conduct within the past six (6) months is not characterized by any of the criteria for suspension or revocation set forth in paragraph (iii) of subdivision (b) or paragraph (iii) of subdivision (c) of § 16-06; [and]

- iii. the newsgathering organization directs such individual to complete a specific assignment that requires the individual to cover, in person:
 - (A) an emergency, spot, or breaking news event, or a public event of a non-emergency nature, where police or fire lines, or other restrictions, limitations, or barriers established by the City of New York have been set up for security or crowd control purposes; or
 - (B) cover, in person, an event sponsored by the City of New York that is open to members of the press; and
- iv. such individual is at least eighteen (18) years old.

§ 4. Subdivisions (e) and (i) of Section 16-05 of Chapter 16 of Title 43 of the Rules of the City of New York are amended to read as follows:

§16-05 Single Event Press Card.

- (e) An individual may
 - i. pre-register by completing an application that includes such applicant's personal identifying information and the name of the newsgathering organization, if any, that employs the individual. The applicant must submit six (6) or more articles, commentaries, books, photographs, videos, films, or audios published, broadcast, or cablecast within the twenty-four (24) months immediately preceding the pre-registration, sufficient to show that such applicant covered, in person, six (6) or more events occurring on separate days; and
 - ii. apply for a Single Event Press Card by providing information that describes the Single Event, including the date(s) and location(s) of such Single Event; and
 - iii. apply for a renewal of a Single Event Press Card upon a demonstration that the Single Event is continuing beyond the expiration of the Single Event Press Card that has been issued to such individual; and
 - iv. if the individual is under eighteen (18) years old:

- (A) the individual may apply for a Single Event Press Card that provides access to a public event of a non-emergency nature or an event sponsored by the City of New York that is open to members of the press; and
- (B) the individual's parent or legal guardian must provide their consent in writing on a form provided by MOME. The parent or legal guardian's consent must be submitted with each pre-registration application, each Single Event Press Card application, and each renewal application.

- (i) Within three (3) business days of the expiration of a Single Event Press Card, the Single Event Press Card holder must either return the card in person to MOME, mail the card in a postage-paid envelope addressed to MOME, or provide the card to a courier or delivery service for delivery to MOME. MOME will post its address for mail and deliveries of Single Event Press Cards on its website. If such card is not received by MOME and the individual subsequently applies for a press credential, the individual must provide as a condition of receiving a press credential:
 - i. a Verification of Crime/Lost Property Report issued by the New York City Police Department; or
 - ii. proof of mailing or use of a courier or delivery service in a form acceptable to MOME.

§ 5. Subdivisions (a) and (b) of Section 16-06 of Chapter 16 of Title 43 of the Rules of the City of New York are amended to read as follows:

§16-06 Appeals and Hearings.

- (a) Denial of application.
 - i. Right to appeal.

- (A) Any applicant who is denied a press credential shall be notified in writing of the basis of the denial and their right to appeal the denial by requesting a hearing before the adjudicatory body authorized to conduct trials at the Office of Administrative Trials and Hearings (“OATH”), in accordance with § 1046 of the City Charter and Title 48 of the Rules of the City of New York.
 - (B) An applicant seeking to appeal a denial to OATH must request, through MOME, a hearing within sixty-five (65) days of the date of the denial. The request to MOME must be in writing and submitted on a form prescribed by MOME, which shall process the request and forward to OATH all relevant documentation received from the applicant.
 - (C) Upon receipt of the request submitted through MOME, OATH will hold the hearing within sixty (60) days of the date the applicant’s request was received by MOME, except where the parties jointly agree on a later hearing date, an adjournment is granted pursuant to OATH’s rules of practice and procedures, or where extraordinary circumstances prevent such scheduling, as determined by the Chief Administrative Law Judge or their designee.
- ii. Criteria. One or more of the following criteria must be met to justify a denial of an application for a press credential:
- (A) The applicant failed to meet the eligibility qualifications described in the definition of a “member of the press” or “newsgathering organization”, as applicable, set forth in § 16-01 of this chapter; or
 - (B) The applicant failed to meet the eligibility requirements for the press credential; or
 - (C) The applicant failed to complete all administrative requirements or instructions set forth in these rules or in the application; provided, however, that MOME will notify the applicant of any incomplete requirements and provide an opportunity for the applicant to complete the application within five (5) business days of notification; or

- (D) The applicant failed to truthfully respond to application questions or provided fraudulent proof of eligibility; provided, however, that the application will not be denied on the basis of an immaterial error in the application that is corrected by the applicant within five (5) business days of notification by MOME; or
- (E) The applicant (1) has an open case for a lawful arrest for[, pled guilty to,] or was convicted of a misdemeanor while newsgathering or has an open case for a lawful arrest for, pled guilty to, or was convicted of a felony; and (2) the Mayor's Office of Media and Entertainment determines that granting a press credential to such applicant would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public; or
- (F) The applicant failed to complete a period of suspension or revocation concerning a previously issued press credential; or
- (G) The applicant was responsible for the misconduct resulting in the suspension or revocation of a Reserve Press Card and such period of suspension or revocation has not expired; or
- (H) The applicant engaged in conduct set forth in paragraphs (B)-(F) of paragraph (iii) of subdivision (b) of this section.

(b) Suspension.

- i. Right to a hearing. MOME is the only agency authorized to suspend a press credential. A press credential may not be suspended by MOME prior to a hearing and a determination that a suspension is proper, based on the criteria set forth in paragraph (iii) of this subdivision. Upon MOME's determination that a press card was seized by an agency, office, official, or employee of the City of New York in violation of this paragraph, MOME shall promptly replace the press card.
- ii. Procedure and burden of proof. The hearing will be held before the adjudicatory body authorized to conduct trials at OATH, in accordance with section 1046 of the Charter and Title 48 of the Rules of the City of New York; provided, however, that consistent with subdivision (f) of § 3-119.4 of the New York City Administrative Code, the applicable burden

of proof for a suspension of a press credential is clear and convincing evidence.

iii. Criteria. One or more of the following criteria must be met to justify the suspension of a press credential. The Standard Press Card holder or Single Event Press Card holder:

- (A) (1) has an open case for a lawful arrest for[, pled guilty to,] or was convicted of a misdemeanor while newsgathering or has an open case for a lawful arrest for[, pled guilty to,] or was convicted of a felony and (2) continued use of the press credential would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public; or
- (B) while engaged in a newsgathering capacity, failed to comply with a lawful order of a police officer or an authorized person of the City agency(ies) or office(s) sponsoring the event; or
- (C) while engaged in a newsgathering capacity, intentionally interfered or attempted to interfere with the performance of an official function of a police officer or an authorized person of the City agency(ies) or office(s) sponsoring the event; or
- (D) misused or misrepresented [the] a press credential issued by the City of New York [while not acting in a newsgathering capacity]; or
- (E) conducted an unauthorized transfer or assignment of such credential [to an individual who had not been issued a press credential at the time of transfer or assignment]; or
- (F) engaged in other conduct that involved an unreasonable risk to property or to the safety or welfare of specific individuals or the general public or interfered with official law enforcement or emergency personnel needs while engaged in a newsgathering capacity.

iv. Reserve Press Cards. A newsgathering organization's Reserve Press Card(s) may be suspended if:

(A) the newsgathering organization issues the Reserve Press Card to an authorized user who [meets at least one of the criteria] engages in conduct set forth in subparagraphs (A)-(F) of paragraph (iii) of this subdivision, [or such individual has an open case for a lawful arrest for, pled guilty to, or was convicted of a misdemeanor or a felony in connection with the use of the newsgathering organization's Reserve Press Card(s)] and (2) the newsgathering organization's continued use of a Reserve Press Card(s) would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public; or

(B) the newsgathering organization issues the Reserve Press Card to an individual who does not meet all criteria set forth in paragraph (h) of Section 16-04.

v. Period of suspension.

(A) The hearing officer will consider the following factors in determining the length of a suspension:

1. whether misconduct actually occurred;
2. the seriousness of any misconduct;
3. the risk that the press credential holder will engage in future misconduct or, in the case of a Reserve Press Card, the Reserve Press Card authorized user will engage in future misconduct;
4. the press credential holder's history of suspensions or a prior revocation, if any; and
5. any other factors raised by the parties at the hearing.

(B) The maximum length of a suspension shall be no more than six (6) months, except that if the suspension resulted from a lawful arrest or indictment based on the press credential holder's or Reserve Press Card authorized user's commission of a misdemeanor or felony, then the length of the suspension may be extended until resolution of the criminal proceedings, and, if an arrest results in a conviction or guilty plea, then the length of the

suspension shall be the period of imprisonment that results from the conviction or guilty plea or six months, whichever is greater.

- vi. Press credentials during suspension. If a Standard Press Card or a Single Event Press Card is suspended, the Standard Press Card holder or Single Event Press Card holder may not obtain or use a press credential during the period of suspension.
- vii. Expiration during suspension. If a press credential expires during suspension, the press credential holder may not apply for a new press credential until the period of suspension is complete.

**NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-356-4028**

**CERTIFICATION PURSUANT TO
CHARTER §1043(d)**

RULE TITLE: Amendment of Rules Relating to Press Credentials

REFERENCE NUMBER: 2023 RG 088

RULEMAKING AGENCY: Mayor's Office of Media and Entertainment

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN
Senior Counsel

Date: January 17, 2024

**NEW YORK CITY MAYOR’S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400**

**CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)**

RULE TITLE: Amendment of Rules Relating to Press Credentials

REFERENCE NUMBER: MOME-11

RULEMAKING AGENCY: Mayor’s Office of Media and Entertainment

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Francisco X. Navarro
Mayor’s Office of Operations

January 18, 2024
Date