



**Board of Correction
City of New York**

**CAPA REGULATORY AGENDA FY 2017
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 2017:

1. **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, those inmates placed in restrictive housing.¹
 - A. **Reason:** The current Chapter 1 rules do not detail the due process and other protections afforded inmates in connection with their placement in restrictive housing as a result of which the manner in which they would access programs and other services is altered as compared to inmates 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 inmates may be placed. Such definitions and categorization are required to ensure that due process and other protections are afforded to all inmates in connection with their placement in restrictive housing.
 - (ii) The current rules do not specify the due process or other protections to be afforded inmates 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 inmates 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 inmates placed in each type of restrictive housing, except for inmates placed in punitive segregation or Enhanced Supervision Housing (ESH). The proposed rules would specify what, if any, restrictions apply to such inmates.

¹ An example of a “restrictive housing area” is a housing area where law library services are brought to the inmate in his housing area as opposed to his traveling outside his housing area to access these services.

- D. Legal Basis: Section 626(e) of the New York City Charter.
- E. Types of individuals and entities likely to be affected: Inmates in the custody of DOC (“inmates”), DOC, and the relevant Correctional Health Authority.
- F. Other relevant laws: None.
- G. Approximate Schedule: Second Quarter of FY 2017.

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

2. **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 inmates and pursuant to which DOC ensures that inmates 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 inmates 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 inmates 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 inmates, DOC, and the relevant Correctional Health Authority.
- F. Other Relevant Laws: None.
- G. Approximate Schedule: Third Quarter of FY 2017.

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

3. **SUBJECT**: Amendments to the variance process.

- A. Reason: Currently, the Minimum Standards contain three separate chapters (Correctional Facilities, Mental Health and Health Care), with each chapter containing its own variance section. These three 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 three chapters of the Board's rules.

- B. Anticipated Contents: Repeal of certain rules in Chapters 1-3 and their replacement with a new Chapter containing variance provisions that would apply uniformly to all three 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 inmates, DOC, and the relevant Correctional Health Authority.
- F. Other relevant laws: None.
- G. Approximate Schedule: Fourth Quarter of FY 2017.

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