

CAPA REGULATORY AGENDA FY 2018
OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS

Pursuant to section 1042 of the Charter, the Office of Administrative Trials and Hearings (OATH) sets forth below its regulatory agenda for the City's fiscal year of 2018:

HEARINGS DIVISION

1. SUBJECT: Appeals

- A. Reason: Upon review, general clean-up of these procedures is needed, including clarification concerning the request for audio recordings, the financial hardship waiver, and reference to the community service option.
- B. Anticipated contents: Amendments to Section 6-19.
- C. Objectives: To establish clear and concise rules concerning the appeals procedures.
- D. Legal Basis: Section 1049(2)(a) of the New York City Charter.
- E. Types of individuals and entities likely to be affected: Respondents who receive summonses adjudicated by the OATH Hearings Division and the enforcement agencies who issue those summonses.
- F. Other relevant laws: None.
- G. Approximate schedule: Third Quarter of FY 2018

Agency Contact: Simone Salloum
(212) 436-0602

2. SUBJECT: Repeal of Penalty Schedules

- A. Reason: The retrospective rules review conducted by the Law Department, the Mayor's Office of Management and Budget, and the Mayor's Office of Operations recommended repeal of the penalty schedules from OATH's rules. OATH has begun this process and will continue to repeal the penalty schedules through Fiscal Year 2018.
- B. Anticipated contents: Repeal of the penalty schedules remaining in Subchapter G.
- C. Objectives: To transfer the penalty schedules to the enforcement agencies that have necessary expertise to determine appropriate penalties for violations of the rules and laws within their jurisdiction; to make it easier for the public to find the penalties; and to speed up the rulemaking process by eliminating the need for OATH approval of proposed or

amended penalties for agency rules that have already been established by the legislature and/or have undergone the CAPA process by the enforcement agency.

- D. Legal Basis: Section 1049(2)(a) of the New York City Charter.
- E. Types of individuals and entities likely to be affected: Respondents who receive summonses adjudicated by the OATH Hearings Division and the enforcement agencies who issue those summonses.
- F. Other relevant laws: None.
- G. Approximate schedule: Throughout of FY 2018

Agency Contact: Simone Salloum
(212) 436-0602

3. SUBJECT: Community Service

- A. Reason: OATH anticipates the need to make further amendments to the community service rule, currently proposed as Chapter 7 of Title 48 of the RCNY once the community service program begins on June 13, 2017.
- B. Anticipated contents: Amendments to Chapter 7.
- C. Objectives: To address any procedural issues that arise once OATH begins offering community service.
- D. Legal Basis: Section 1049(2)(a) of the New York City Charter and 1049(4)(g).
- E. Types of individuals and entities likely to be affected: Respondents who receive summonses eligible for community service.
- F. Other relevant laws: Section 1049(4) of the New York City Charter.
- G. Approximate schedule: Second Quarter of FY 2018

Agency Contact: Simone Salloum
(212) 436-0602

4. SUBJECT: Evidentiary procedures concerning in camera inspections.

- A. Reason: The OATH Hearings Division recently began adjudicating summonses concerning the sale of tobacco to a minor, which involves the acceptance of a minor's

birth certificate into evidence. The Hearing Division's procedural rules do not currently contain any procedure concerning in camera inspections.

- B. Anticipated contents: Amendments to Section 6-12.
- C. Objectives: To clarify that OATH Hearing Officers may inspect documents in camera.
- D. Legal Basis: Section 1049(2)(a) of the New York City Charter
- E. Types of individuals and entities likely to be affected: Respondents who receive summonses for the sale of tobacco to a minor, the Department of Consumer Affairs, and the Department of Finance.
- F. Other relevant laws: 22 NYCRR 202.5
- G. Approximate schedule: Second Quarter of FY 2018

Agency Contact: Simone Salloum
(212) 436-0602

5. SUBJECT: Misconduct – Settlement Conferences.

- A. Reason: To strengthen the public's perspective of the OATH Hearing Division as an independent tribunal by prohibiting settlement conferences in the Hearing Division waiting rooms.
- B. Anticipated contents: Amendments to Section 6-25(a).
- C. Objectives: To prohibit settlement conferences on OATH Hearing Division premises.
- D. Legal Basis: Section 1049(2)(a) of the New York City Charter
- E. Types of individuals and entities likely to be affected: Respondents who receive summonses adjudicated by the Hearings Division and the enforcement agencies that issue the summonses.
- F. Other relevant laws: None.
- G. Approximate schedule: Fourth Quarter of FY 2018

Agency Contact: Simone Salloum
(212) 436-0602

6. SUBJECT: General Clean-up of Chapters 3, 5, and 6.

- A. Reason: OATH anticipates reviewing the procedural rules for the OATH Hearing Division and making any necessary amendments to clarify the procedures and ensure that consistent language is used.
- B. Anticipated contents: Amendments to Chapter 3, 5, and 6.
- C. Objectives: To remove any inconsistencies within Chapters 3, 5, and 6 and provide improved guidance as to the Hearing Division procedures.
- D. Legal Basis: Section 1049(2)(a) of the New York City Charter
- E. Types of individuals and entities likely to be affected: Respondents who receive summonses adjudicated by the Hearings Division and the enforcement agencies that issue the summonses.
- F. Other relevant laws: None.
- G. Approximate schedule: Fourth Quarter of FY 2018

Agency Contact: Simone Salloum
(212) 436-0602