

CAPA REGULATORY AGENDA FY 2019
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 2019:

HEARINGS DIVISION

1. SUBJECT: Appeals

- A. Reason: Upon review, OATH determined that clarification of procedures, simplification of language, and re-organization of the appeals rules was needed to make the rules easier to read and understand. OATH also determined that allowing the Appeals Unit to consider dispositive government records that were not presented during the hearing would avert potential miscarriages of justice.
- B. Anticipated contents: Revisions to 3-15, 3-16, 5-04, and 6-19.
- C. Objectives: OATH is in the process of drafting revisions to reorganize the rule's sections to chronologically set forth the appeals process, simplify language, create an automatic extension of time to file or respond to an appeal, and authorize the tribunal to consider dispositive government records that establish a material fact that were not presented at the hearing.
- 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: Fourth Quarter of Fiscal Year 2018/1st Quarter of Fiscal Year 2019

Agency Contact: Simone Salloum
(212) 933-3060

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 commenced this process in Fiscal Year 2016 and will continue to repeal the penalty schedules through Fiscal Year

2019. This process requires coordinated action by OATH and each affected enforcement agency.

- 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 Fiscal Year 2019

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3. SUBJECT: Community Service

- A. Reason: Upon review of the first eight months of OATH's community service program, OATH is considering amendments to Chapter 7 of Title 48 of the RCNY, relating to the procedure for offering and opting into community service, the process of requesting extensions to complete community service, and the community service hour requirements.
- B. Anticipated contents: Amendments to Chapter 7.
- C. Objectives: To ensure that the rule provides greater flexibility to respondents who wish to perform 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: Fourth Quarter of Fiscal Year 2018/1st Quarter of Fiscal Year 2019

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5. SUBJECT: Registered Representatives and Misconduct.

A. Reason: To update and clarify language describing the types of misconduct and patterns of misconduct, particularly those involving dishonesty and integrity issues, currently reflected in registered representative activities. To address concerns that registered representatives are appearing on behalf of respondents without authorization and appearing at hearings with no knowledge of the alleged violations in the summonses.

B. Anticipated contents: Amendments to Sections 6-23 and 6-25.

C. Objectives: Add a provision that registered representatives must be knowledgeable about the alleged violations in the summons upon which they are appearing. Add requirements contained in the authorization form to enhance notice and disclosure to otherwise unrepresented respondents. Revise and clarify the types of misconduct and penalties for misconduct.

D. Legal Basis: Section 1049(2)(a) of the New York City Charter

E. Types of individuals and entities likely to be affected: Registered representatives and other representatives who appear on behalf of respondents at the Hearings Division.

F. Other relevant laws: None.

G. Approximate schedule: Fourth Quarter of Fiscal Year 2018/1st Quarter of Fiscal Year 2019

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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: This is general clean-up, removing inconsistencies and providing improved guidance as to Hearings 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 in the Hearings Division and the enforcement agencies that issue the summonses.
- F. Other relevant laws: None.
- G. Approximate schedule: Throughout Fiscal Year 2019.

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