

**City of New York
Office of Administrative Trials and Hearings**

Notice of Public Hearing and Opportunity to Comment on Proposed Rule

What are we proposing? The Office of Administrative Trials and Hearings (OATH) proposes to amend its Rules of Practice in title 48 of the Rules of the City of New York to clarify, refine, and establish rules for the conduct of remote proceedings. OATH also proposes additional amendments to these rules that would streamline and modernize its Trials Division's and Hearings Division's processes.

When and where is the Hearing? OATH will hold a public hearing on the proposed rule. The public hearing will take place **from 11:00 a.m. through 1:00 p.m. on September 20, 2021**. The hearing will be conducted by video conference and is accessible by:

- **Internet Video and Audio.** For access, visit:
<https://nyc-oath.webex.com/nyc-oath/j.php?MTID=mfdbe858bcbe83239a51203351f9d005f>

When prompted, enter Meeting ID: **179 432 9767**
Password: **FQxDz3EXV66**

- **Phone.** For access, dial: **1-646-992-2010**
When prompted, enter Meeting ID: **179 432 9767##**

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

- **Website.** You can submit comments to OATH through the NYC rules website at <http://rules.cityofnewyork.us/>.
- **Email.** You can email written comments to Rules_Oath@oath.nyc.gov.
- **Mail.** You can mail written comments to OATH, Attention: Joy Thompson, Assistant General Counsel, 100 Church Street, 12th Floor, New York, NY 10007.
- **Fax.** You can fax written comments to OATH, Attention: Joy Thompson, Assistant General Counsel, at 212-361-1900.
- **By Speaking at the Hearing.** Anyone who wants to comment on the proposed rules at the public hearing may speak for up to three minutes. Please access the public hearing by internet video and audio or by telephone using the instructions above.

Is there a deadline to submit written comments? You may submit written comments until **5:00 p.m. on September 20, 2021**.

What if I need assistance to participate in the hearing? You must tell us if you need a reasonable accommodation of a disability at the hearing. You must tell us if you need a sign language interpreter. You may contact us by email at enolan@oath.nyc.gov or by telephone at (212) 436-0708 to request a reasonable accommodation. Please tell us by **September 17, 2021**.

Can I review the comments made on the proposed rule? You can review the comments that have been submitted online by visiting the NYC rules website at <http://rules.cityofnewyork.us/>. Shortly after the public hearing, a summary of oral comments and copies of all written comments will be available to the public on OATH's website, at <https://www1.nyc.gov/site/oath/about/legal-resources-and-rule-making.page>.

What authorizes OATH to make this rule? Sections 1043, 1049, and 1049-a of the New York City Charter. This proposed rule was not included in OATH's regulatory agenda for this Fiscal Year, because it was not contemplated at the time the regulatory agenda was created.

Where can I find OATH's rules? OATH's rules are located in title 48 of the Rules of the City of New York.

What laws govern the rulemaking process? This notice is made according to the requirements of Section 1043 of the New York City Charter.

Statement of Basis and Purpose of Proposed Rule

Pursuant to the authority set forth in sections 1043, 1049, and 1049-a of the New York City Charter, which authorizes the Chief Administrative Law Judge of the Office of Administrative Trials and Hearings (OATH) to establish rules of conduct, OATH proposes amendments to its rules governing remote and in-person hearings and trials. The provisions codified in chapter 6 of title 48 of the Rules of the City of New York that would be amended by this proposal govern Environmental Control Board adjudicatory proceedings, as well as other proceedings under the jurisdiction of OATH's Hearings Division.

State and local authorities have facilitated the use of remote methods to conduct adjudications during the COVID-19 pandemic. Mayoral Emergency Executive Order 177, dated January 27, 2021, and Mayoral Emergency Executive Order 179, dated February 1, 2021, which have since been extended by a series of subsequent Mayoral Emergency Executive Orders, broadened OATH's authority to adjudicate most summonses filed in the OATH Hearings Division and petitions filed in the OATH Trials Division by remote means. During this period, OATH developed and refined the processes and protocols that make telephone and videoconference communications easier to use and more efficient. OATH seeks here to formalize remote proceedings in rules, as well as the processes underlying them.

As of the date of this notice, OATH continues to adjudicate most matters remotely. In order to ensure that parties appearing before OATH continue to have the option to appear remotely even beyond the end of the present local declaration of emergency, OATH is proposing to amend its rules to make appropriate procedural adjustments and to establish OATH's general ability to use remote methods of adjudication.

Prior to the pandemic, the full complement of parties, witnesses, adjudicators, and staff required to process the nearly 1,000 matters heard daily by OATH numbered in the hundreds. Because of space constraints and the ongoing risk of COVID-19 transmission from close in-person contact, remote appearances remain a critical option for many New Yorkers, in order to ensure they may avail themselves of their right to due process in contesting a City agency's enforcement or disciplinary action. The adoption of these rules is necessary to prevent any potential interruption of this option in these times of pandemic.

Section one of this proposed rule would amend section 1-01 of title 48 of the Rules of the City of New York by adding definitions for "appearance" and "remote means."

A definition of "appearance," much like the one proposed in section one of this proposed rule, already exists in chapter 6 of title 48 of the Rules of the City of New York. By adding this definition in chapter one, OATH would provide the same clarity regarding proceedings in the OATH Trials Division. This definition of "appearance" would incorporate the term "remote means" to allow for a broader range of remote proceedings at the discretion of the OATH Trials Division. "Remote means" would encompass a wide range of means of communication that do not require the physical presence of the parties.

Section two of this proposed rule would amend the definition of "trial" in section 1-01 of title 48 of the Rules of the City of New York to clarify that such proceedings may, at the discretion of the OATH Trials Division, be conducted either in person or by remote means.

Section three of this proposed rule would amend subdivisions (a) and (c) of section 1-11 of title 48 of the Rules of the City of New York to further clarify that appearances before the OATH Trials Division are not limited to those occurring in person.

Section four of this proposed rule would amend subdivision (a) of section 1-14 of title 48 of the Rules of the City of New York to specify that all methods of communication are included within the scope of the rule prohibiting *ex parte* communications in the OATH Trials Division.

Section five of this proposed rule would amend subdivision (a) of section 1-28 of title 48 of the Rules of the City of New York to ensure that notices contain all relevant information respecting the time, means, and location of OATH Trials Division conferences or trials, whether live or remote. Section five would also authorize notice of conferences or trial to be served by e-mail upon consent of the parties.

Section six of this proposed rule would amend subdivision (a) of section 1-30 of title 48 of the Rules of the City of New York, regarding the procedures of conferences, to substitute the phrase "appear at" for "attend," as "attend" could be misinterpreted to require a party's actual presence. The substitution is intended to clarify that appearances at conferences may be by remote means, where permitted by the OATH Trials Division. This section also would remove a provision authorizing telephonic conduct of conferences, as other sections of this proposed rule amendment would broadly expand the potential use of remote means of appearance, beyond telephonic means.

Section seven of this proposed rule would amend subdivisions (b) and (c) of section 1-31 of title 48 of the Rules of the City of New York to allow OATH Trials Division settlement conferences to be conducted by remote means, under certain circumstances. This rule section would also increase the efficiency of the OATH Trials Division by allowing law clerks and other personnel specifically designated by the Chief Administrative Law Judge to oversee settlement negotiations by providing that such individuals cannot be called to testify in any proceeding concerning statements made at a settlement conference. Insulating these personnel from being called to testify will promote candor and constructive negotiations at settlement hearings, allowing them to effectively oversee such conferences.

Section eight of this proposed rule would amend section 1-45 of title 48 of the Rules of the City of New York to substitute the word “appear” for the phrase “be present,” as “be present” could be interpreted to require a party’s in person appearance. The substitution is intended to clarify that appearances at conferences may be conducted by remote means, where permitted by the OATH Trials Division.

Section nine of this proposed rule would amend subdivisions (a) and (b) of section 1-49 of title 48 of the Rules of the City of New York to provide that public access of OATH Trials Division proceedings may be in person or by remote means, in the discretion of the Administrative Law Judge.

Section ten of this proposed rule would amend subdivisions (a) and (c) of section 5-02 of title 48 of the Rules of the City of New York to specify that, with respect to certain proceedings concerning the Taxi and Limousine Commission (TLC), the TLC may produce complaining witnesses either in person or by remote means.

Section 11 of this proposed rule would amend the definition of “appearance” in section 6-01 of title 48 of the Rules of the City of New York to provide that an appearance may be made in person or by remote means at the discretion of the OATH Hearings Division, as provided in title 48.

Section 12 of this proposed rule would amend section 6-01 of title 48 of the Rules of the City of New York to add a definition of “remote means” nearly identical to the one that is proposed to be included in section two of this proposed rule, but applicable to the OATH Hearings Division.

Section 13 of this proposed rule would amend subdivisions (b), (e) and (f) of section 6-09 of title 48 of the Rules of the City of New York to provide that appearances before the OATH Hearings Division made by written communication, including communication transmitted by postal mail or through the internet, are subject to particularized protocols and procedures that are distinct from those applicable to telephonic communication, videoconferencing, in person appearances, or other similar means of appearance . Authorization for the use of written appearance methods would require the permission of the Tribunal. These rules are also intended to instruct attorneys and representatives appearing on 15 or more summonses on any given hearing date in person to adhere to the specific protocols and processes identified in section 6-24 of the subchapter.

Separate provisions apply to remote telephonic, videoconference, or other similar hearings, as set forth in proposed section 6-24a, discussed below.

Section 14 of this proposed rule would amend the title and subdivision a of section 6-10 of title 48 of the Rules of the City of New York to clarify that only written means of communication, including written communication transmitted by postal mail, online written communication or other similar remote means, as permitted by the OATH Hearings Division, are subject to the procedures set forth in section 6-10 of title 48 of the Rules of the City of New York.

Section 15 of this proposed rule would repeal subdivision d of section 6-10 of title 48 of the Rules of the City of New York, relating to adjudications by telephone before the OATH Hearings Division, because only written means of communication are contemplated by that section, based on the revisions proposed to be made by this rule.

Section 16 of this proposed rule would amend section 6-24 of title 48 of the Rules of the City of New York to require attorneys and representatives appearing in person on 15 or more summonses on any given hearing date to provide a list of applicable summonses three days prior to such hearing date. This rule amendment would help the OATH Hearing Division efficiently process to completion the high volume of matters typically heard by the OATH Hearings Division in person, and to provide personnel with sufficient time to sort and assign matters.

Section 17 of this proposed rule would add a new section 6-24a to title 48 of the Rules of the City of New York that would limit individual attorneys and representatives appearing before the OATH Hearings Division by telephone, videoconferencing, or other similar remote means to 25 summonses per hearing date, and would require such attorneys and representatives to provide a list of summonses three days prior to such hearing date, regardless of the total number of summons on which he or she is appearing by telephone. This rule amendment would help the OATH Hearings Division to efficiently process to completion the high volume of matters heard by the OATH Hearings Division by telephone, videoconferencing, or other similar remote means and to provide personnel with sufficient time to sort and assign matters.

These proposed rules would promote the efficiency of OATH's adjudications.

Deleted material is in [brackets].

New text is underlined.

Section 1. Section 1-01 of title 48 of the Rules of the City of New York is amended by adding definitions for “appearance” and “remote means” in appropriate alphabetical order to read as follows:

Appearance. “Appearance” means a communication with the OATH Trials Division that is made by a party or the attorney or representative of a party in connection with a petition that is or was pending before the OATH Trials Division. An appearance may be made in person or, at the discretion of the OATH Trials Division, by remote means.

Remote means. “Remote means” refers to any means of communication that does not require the physical presence of a party or representative and that has been approved by the OATH Trials Division as a means of proceeding. At the discretion of the OATH Trials Division, remote means may include, but are not limited to, telephonic communication, postal mail and online communication, including e-mail and videoconferencing.

§ 2. The definition of “trial” in section 1-01 of title 48 of the Rules of the City of New York is amended to read as follows:

Trial. “Trial” means a proceeding before an administrative law judge in the OATH Trials Division. Such proceedings may either be conducted in person or, at the discretion of the OATH Trials Division, by remote means.

§ 3. Subdivisions (a) and (c) of section 1-11 of title 48 of the Rules of the City of New York are amended to read as follows:

(a) [A party] Parties may appear [in person] themselves, by an attorney, or by a duly authorized representative. A person appearing for a party [, including by telephone conference call,] is required to file a notice of appearance with OATH. Docketing of a case by an attorney or representative of a party will be deemed to constitute the filing of a notice of appearance by that person. The filing of any papers by an attorney or representative who has not previously appeared will constitute the filing of a notice of appearance by that person, and must conform to the requirements of subdivisions (b), (d) and (e) of this section.

(c) Absent extraordinary circumstances, no application may be made or argued by any attorney or other representative who has not filed a notice of appearance. Any application submitted on behalf of a party or participation in a conference[, whether by e-mail, letter or phone,] will be deemed an appearance by the attorney or representative. After making such an appearance, the attorney or representative must file a notice of appearance in conformity with subdivisions (b), (d) and (e) of this section.

§ 4. Subdivision (a) of section 1-14 of title 48 of the Rules of the City of New York is amended to read as follows:

(a) Except for ministerial matters, on consent, in an emergency, or as provided in § 1-31(a), communications with the administrative law judge concerning a case must only occur with all parties present, either in person or by remote means. If an administrative law judge receives an ex parte communication concerning the merits of a case to which he or she is assigned, then he or she must promptly disclose the communication by placing it on the record, in detail, including all written and oral communications and identifying all individuals with whom he or she has communicated. A party desiring to rebut the ex parte communication will be allowed to do so upon request.

§ 5. Subdivision (a) of section 1-28 of title 48 of the Rules of the City of New York is amended to read as follows:

(a) When a case is placed on either the trial calendar or the conference calendar, and within the time provided in § 1-26(d), if applicable, the party that placed the case on the calendar must serve each other party with notice of the following: the date, the time and, if applicable, the place of the trial or conference and whether the OATH Trials Division has determined if it will be held in person or by remote means; each party's right to representation by an attorney or other representative at the trial or conference; the requirement that a person representing a party at the trial or conference must file a notice of appearance with OATH prior to the trial or conference; and, in a notice of a trial served by the petitioner, the fact that failure of the respondent or an authorized representative of the respondent to appear at the hearing may result in a declaration of default, and a waiver of the right to a trial or other disposition against the respondent. The notice may be served personally [or], by mail, or, upon consent of the parties, by e-mail, and appropriate proof of service must be maintained. A copy of the notice of conference, with proof of service, must be filed with OATH at or before the commencement of the conference. A copy of the notice of trial, with proof of service, must be filed with OATH at or before the commencement of the trial.

§ 6. Subdivision (a) of section 1-30 of title 48 of the Rules of the City of New York is amended to read as follows:

(a) All parties are required to [attend] appear at conferences as scheduled unless timely application is made to the administrative law judge. Participants must be prompt and prepared to begin on time. No particular format for conducting the conference is required. The structure of the conference may be tailored to the circumstances of the particular case. The administrative law judge may propose mediation and, where the parties consent, may refer the parties to the Center for Creative Conflict Resolution or other qualified mediators. [In the discretion of the administrative law judge, conferences may be conducted by telephone.]

§ 7. Subdivisions (b) and (c) of section 1-31 of title 48 of the Rules of the City of New York is amended to read as follows:

(b) If settlement is to be discussed at the conference, each party must have an individual possessing authority to settle the matter, either present at the conference or readily accessible. All individuals participating in the conference shall be present or readily accessible either in person or, at the discretion of the OATH Trials Division, by remote means, as applicable. A settlement conference will be conducted by an administrative law judge or other individual designated by the Chief Administrative Law Judge, other than the administrative law judge assigned to hear the case. During settlement discussions, upon notice to the parties, the administrative law judge or other person conducting the conference may confer with each party and/or representative separately.

(c) All settlement offers, whether or not made at a conference, will be confidential and will be inadmissible at trial of any case. Administrative law judges or other individuals designated by the Chief Administrative Law Judge to conduct settlement conferences must not be called to testify in any proceeding concerning statements made at a settlement conference.

§ 8. Section 1-45 of title 48 of the Rules of the City of New York is amended to read as follows:

1-45 Failure to Appear.

All parties, attorneys and other representatives are required to [be present] appear at OATH and to be prepared to proceed at the time scheduled for commencement of trial. Commencement of trial, or of any session of trial, will not be delayed beyond the scheduled starting time except for good cause as determined in the discretion of the administrative law judge. Absent a finding of good cause, and to the extent permitted by the law applicable to the claims asserted in the petition, the administrative law judge may direct that the trial proceed in the absence of any missing party or representative, render a disposition of the case adverse to the missing party, or take other appropriate measures, including the imposition of sanctions listed in § 1-13(e). Relief from the direction of the administrative law judge may be had only upon motion brought as promptly as possible pursuant to § 1-50 or § 1-52. The administrative law judge may grant or deny such a motion, in whole, in part, or upon stated conditions.

§ 9. Subdivisions (a) and (b) of section 1-49 of title 48 of the Rules of the City of New York is amended to read as follows:

(a) Other than settlement conferences, all proceedings are open to the public, unless the administrative law judge finds that a legally recognized ground exists for closure of all or a portion of the proceeding, or unless closure is required by law. Access to the public may be in person or by remote means, in the discretion of the administrative law judge. Trial witnesses may be excluded from proceedings other than their own testimony in the discretion of the administrative law judge.

(b) No person may make or cause to be made a stenographic, electronic, audio, audio-visual or other verbatim or photographic reproduction of any trial or other proceeding, whether such trial or other proceeding is conducted in person [, by telephone, or otherwise] or by remote means, except upon application to the administrative law judge or as otherwise provided by law (e.g. N.Y. Civil Rights Law, § 52). Such application must be addressed to the discretion of the administrative law judge, who may deny the application or grant it in full, in part, or upon such conditions as the administrative law judge deems necessary to preserve the decorum of the proceedings and to protect the interests of the parties, witnesses and any other concerned persons.

§ 10. Subdivisions (a) and (c) of section 5-02 of title 48 of the Rules of the City of New York is amended to read as follows:

(a) Pursuant to Administrative Code § 19-506.1, the TLC must produce the complaining witness in person or by remote means where such witness's credibility is relevant to the summons being adjudicated. [If the TLC is unable to produce such witness in person, the TLC must make reasonable efforts to make the witness available during the hearing by videoconferencing or teleconferencing.]

(c) If the Respondent previously requested an adjournment to obtain the testimony of the complaining witness, the non-attendance of the complaining witness either in person or by remote means will be considered a failure by the TLC to produce a complaining witness under paragraph (b) and may be grounds for the Hearing Officer to dismiss the summons.

§ 11. The definition of “appearance” in section 6-01 of title 48 of the Rules of the City of New York is amended to read as follows:

“Appearance” means a communication with the Tribunal that is made by a party or the attorney or representative of a party in connection with a summons that is or was pending before the Tribunal. An appearance may be made in person [, online] or by [other] remote [methods approved by] means at the discretion of the Tribunal, as provided in this title.

§ 12. Section 6-01 of title 48 of the Rules of the City of New York is amended by adding a new definition of “remote means” in appropriate alphabetical order to read as follows:

“Remote means” refers to any means of communication that does not require the physical presence of a party or representative and that has been approved by the Tribunal as a means of proceeding. At the discretion of the Tribunal, remote means may include, but are not limited to, telephonic communication, postal mail and online communication, including e-mail and videoconferencing.

§ 13. Subdivisions (b), (e) and (f) of section 6-09 of title 48 of the Rules of the City of New York is amended to read as follows:

(b) A Respondent may appear for a hearing by:

(1) Appearing [in person] themselves or by representative either by telephone, videoconferencing, or similar remote means or in person at the place, date, and time scheduled for the hearing. Respondent’s appearance is timely if Respondent or Respondent’s representative appears at the scheduled hearing location in person or by telephone, videoconferencing, or similar remote means, and is ready to proceed within three (3) hours of the scheduled hearing time for a summons. However, a representative or attorney appearing on fifteen (15) or more summonses on a given hearing date must comply with the requirements set forth in § 6-24 to be considered timely; or

(2) Appearing by written communication, including postal mail, written online communication, or by other similar remote [methods] means, pursuant to § 6-10[, only where the summons indicates that such opportunity is available to a Respondent. Where the summons requires personal appearance, a Respondent must appear pursuant to subsection (1) of this subdivision] when the opportunity to do so is offered by the Tribunal.

(e) *Failure to Appear by Respondent.* A Respondent’s failure to appear timely pursuant to subsection (1) of subdivision (b) of this section, or to make a timely request to reschedule pursuant to § 6-05, [constitutes] constitute a default and subjects the Respondent to penalties in accordance with § 6-20.

(f) Notwithstanding any other provision of this section, attorneys or registered representatives who appear in person on fifteen (15) or more summonses on a given hearing date, and those who appear remotely on any matter, must comply with the requirements set forth in § 6-24 and § 6-24a respectively. Failure to do so constitutes a default and subjects the Respondent to penalties in accordance with § 6-20.

§ 14. The title and subdivision a of section 6-10 of title 48 of the Rules of the City of New York is amended to read as follows:

6-10 Written Remote Adjudications.

(a) When the opportunity to do so is offered by the Tribunal, a Respondent may contest a violation by written communication, including by postal mail, written online communication, [by telephone] or by other similar remote [methods] means, as permitted by the Tribunal.

§ 15. Subdivision d of section 6-10 of title 48 of the Rules of the City of New York, relating to adjudications by telephone is REPEALED.

§ 16. Section 6-24 of subchapter C of chapter 6 of title 48 of the Rules of the City of New York is amended to read as follows:

6-24 Pre-hearing Notification of Schedule for Attorneys and Registered Representatives for In Person Hearings.

(a) No attorney or registered representative may appear in person on fifteen (15) or more summonses on a given hearing date unless:

(1) No later than noon [two (2)] three (3) business days before the scheduled hearing date, the Tribunal office in the borough where the cases are scheduled to be heard receives from the attorney or registered representative by email a written list of all scheduled cases;

(2) Notices of Appearance are submitted in advance of the scheduled hearing, as directed by the Tribunal, to the Tribunal office in the borough where cases are scheduled to be heard; and

(3) [The attorney or registered representative appears at or before the scheduled hearing time, at the place and date for the scheduled hearing. The timeliness requirements set forth in § 6-09(b)(1), which allows a Respondent or a Respondent's representative to appear within three (3) hours of the scheduled hearing time, does not apply when an attorney or representative is appearing on fifteen (15) or more summonses on a given hearing date] The Respondent's attorney or representative appears no later than the earliest scheduled hearing time set forth on the summonses to be heard. The timeliness requirements set forth in § 6-09(b)(1) do not apply in such circumstances.

(b) Cases may be added to this list on the day of the hearing at the discretion of the Tribunal.

§ 17. Subchapter F of chapter 6 of title 48 of the Rules of the City of New York is amended by adding a new section 6-24-a to read as follows:

§6-24a Pre-hearing Notification of Schedule for Attorneys and Registered Representatives for Hearings by Telephone, Video-Conferencing or Other Similar Remote Means.

(a) No attorney or registered representative may appear by telephone, video-conferencing or other similar remote means unless:

(1) No later than noon three (3) business days before the scheduled hearing date, the Tribunal receives from the attorney or registered representative a list of all scheduled cases in a format required by the Tribunal;

(2) The attorney or registered representative submits only one list per hearing date and submits that list electronically pursuant to the Tribunal's direction to a recipient designated by the Tribunal, regardless of the county in which the summonses were scheduled;

(3) The attorney or registered representative makes no changes or additions to the list, unless it is to withdraw their representation on a matter; and

(4) The attorney or registered representative calls in for their first scheduled hearing no later than the earliest scheduled hearing time as set forth on the summonses or reschedule notices to be heard. The timeliness requirements set forth in § 6-09(b)(1) do not apply in such circumstance.

(b) No one registered representative or attorney may appear by remote means on a single hearing date for more than twenty-five (25) summonses, unless an exception is granted by the Tribunal prior to the hearing date.

(c) Where a law firm or representative firm has more than twenty-five (25) cases scheduled on a hearing date, it must assign an additional registered representative or attorney for each group of up to twenty-five (25) summonses to be heard on that date, unless an exception is granted by the Tribunal prior to the hearing date.

(d) The law firm or representative firm must provide the names of the additional registered representatives or attorneys who will appear on the additional groups of cases on that date. Once a registered representative or attorney is assigned to appear on a group of summonses, a different registered representative or attorney may not appear in their place.

**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: Conduct of Hearings and Trials by Remote Means

REFERENCE NUMBER: 2021 RG 061

RULEMAKING AGENCY: Office of Administrative Trials and Hearings

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
Acting Corporation Counsel

Date: August 12, 2021

**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: Conduct of Hearings and Trials by Remote Means

REFERENCE NUMBER: OATH-ECB-105

RULEMAKING AGENCY: Office of Administrative Trials and Hearings

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

August 12, 2021
Date