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BEFORE THE  
NEW YORK CITY POLICE DEPARTMENT  
LEGAL BUREAU  
NEW YORK, NY

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NOTICE OF PUBLIC HEARING AND OPPORTUNITY TO COMMENT ON THE  
NEW YORK CITY POLICE DEPARTMENT (“NYPD”) REPEAL OF RULES RELATING  
TO PRESS CREDENTIALS AS REQUIRED BY LOCAL LAW 46 OF 2021, TRANSFERRING  
RESPONSIBILITY TO ISSUE PRESS CREDENTIALS FROM THE NYPD TO THE MAYOR’S  
OFFICE OF MEDIA AND ENTERTAINMENT (“MOME”)

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Pursuant to Sections 389(b) and 1043 of the City Charter and  
section 3-119.4 of the City Administrative Code

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**COMMENTS OF THE  
NATIONAL PRESS PHOTOGRAPHERS ASSOCIATION**

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## **Introduction**

The National Press Photographers Association (NPPA), representing staff photographers and freelance visual journalists, whose members gather and report the news for publication by means of print, radio, television, Internet, and other forms of media respectfully submits the following Comment on the Proposed Rule, certified on April 25, 2021, implementing Sections 389(b) and 1043 of the City Charter and section 3-119.4 of the City Administrative Code (Local Law 46 of 2021) regarding “Rules Relating to Press Credentials,” Reference Number MOME-7.

*Inter alia*, those rules transfer the responsibility to issue press credentials, along with the authority to seize, suspend and revoke press credentials, from the New York City Police Department (“NYPD”) to the Mayor’s Office of Media and Entertainment (“MOME”), effective January 20, 2022, by moving the content of 38 RCNY sections 11-01 to 11-03 to Title 43 of the RCNY, Chapter 16. This local law also establishes a process for administrative appeals and hearings at the Office of Administrative Trials and Hearings (“OATH”).

## **Background**

Spurred by a previous lawsuit,<sup>1</sup> NPPA provided comments to a notice of proposed rulemaking regarding revisions to 38 RCNY §§ 11-01, 11-02, 11-03 and 11-04. relating to the “Issuance of Working Press Cards, Reserve Working Press Cards, Single Event Working Press Cards and Press Identification Cards.” NPPA noted then, that the proposed rule change was overly broad, as well as arbitrary and capricious and failed to adequately address the issue of seizure, suspension, and revocation of the working press

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<sup>1</sup> See: *Martinez-Alequin et al v. The City of New York et al*, Case No. 1:08-cv-09701 (SDNY 2007).

cards (credentials).

Following another lawsuit<sup>2</sup> NPPA again filed comments to NYPD's proposed amendment of 38 RCNY§ 11-11 clarifying its criteria and procedures to suspend or revoke press credentials. Joined by the Committee to Protect Journalists (CPJ), First Look Media's Press Freedom Defense Fund (PFDF), the New York News Publishers Association (NYNPA), the New York Press Photographers Association (NYPPA), the Radio and Television Digital News Association (RTDNA) and the Society of Professional Journalists (SPJ). NPPA filed those Comments regarding the NYPD proposed "Amendment of Rules for Suspension or Revocation of Press Credentials," Reference Number 2020 RG 059, in which we proposed that whenever suspension or revocation of a press credential is sought, a due process hearing shall be held before such suspension or revocation shall take effect.

On February 12, 2021, NPPA also filed Testimony before the Council of the City of New York Committee on Governmental Operations regarding Introduction Number 2118 (Int. No. 2118), a local law to amend the Administrative Code of the City of New York, in relation to press credentials to improve the procedures for the application, issuance, suspension, revocation, and appeals process regarding press credentials as well as to remove the NYPD's authority over press credentialing.

On February 9, 2021, Lisa Bland, Counsel for the NYPD filed a statement on behalf of NYPD Commissioner Dermot Shea, in support of "moving press credentialing out of the NYPD," but with the caveat that "further conversations are needed to determine the right agency to take on this important work" and pledging that "the Department will work with the appropriate agency to ensure a seamless transition."

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<sup>2</sup> See: *Nicholas v. Bratton et al*, No. 1:2015cv09592 - Document 85 (S.D.N.Y. 2017)

On November 23, 2021, NPPA, joined by the same media organizations listed above (in its 8/17/20 comments) submitted comments to MOME commending its proposed rules requiring that a due process hearing be held before the suspension or revocation of a press credential takes effect. NPPA also commended MOME for several other proposals such as ensuring independent adjudication of the issuance, suspension or revocation of press credentials by transferring such authority from the NYPD to MOME.

### **Recommendations**

NPPA submits this Comment in support of moving the press credentialing process along with the authority to seize, suspend and revoke press credentials, from the NYPD in the expectation that this transfer of press credentialing authority to MOME will further improve the press credentialing requirements, criteria, and procedures. We also expect that prior to and after said transfer of authority, the NYPD will duly inform its members they must cease the practice of summarily seizing or threatening to seize, suspend or revoke the press credentials of journalists covering newsworthy events in New York City as they no longer will have that authority. We recommend that such directive be included in the NYPD Patrol Guide, through a General Order, in A FINEST message, or in some other written policy, along with commensurate discipline should a member of the service violate these rules. Such directive should also include requirements that members of the service recognize and honor MOME-issued press credentials regarding the ability of journalists to cover emergency, spot, or breaking news events and/or public events of a non-emergency nature, where police and 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 as well as for events sponsored by the City of New York which are open to members of the press.

NPPA also strongly recommends that the NYPD provide training to its service members regarding this matter.

### **Conclusion**

The National Press Photographers Association appreciates the opportunity to submit these comments in support of moving the press credentialing process along with the authority to seize, suspend and revoke press credentials from the NYPD to MOME. As stated above NPPA respectfully requests that our recommendations be adopted to ensure such transfer of authority results in a seamless transition where the rights of journalists and the tenets of the First Amendment of the United States Constitution and Article I, Section 8 of the New York State Constitution regarding freedom of speech and press are upheld and respected.

Additionally, we offer the service and vast expertise of our members should MOME, OATH, or the NYPD wish any additional input and advice regarding this transfer of press credentialing authority or the implementation of the new press credentialing rules and the administrative appeals and hearings process.

Respectfully submitted,

NATIONAL PRESS PHOTOGRAPHERS ASSOCIATION

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