

City of New York
Office of Administrative Trials and Hearings

Notice of Notice of Adoption of Rule

The Office of Administrative Trials and Hearings (OATH) has adopted amendments to its Rules of Practice in title 48 of the Rules of the City of New York to provide more time for moving to reopen a default and request a new hearing in OATH's Hearings Division.

The Environmental Control Board voted to approve a proposed version of these amendments on February 10, 2022. A proposed version of these amendments was published in The City Record on March 2, 2022. A public hearing was held on April 5, 2022. No testimony regarding the amendments was given at the public hearing, and OATH received two (2) written comments from the public in favor of the amendments. The Environmental Control Board voted to approve a final version of these amendments on June 2, 2022.

Statement of Basis and Purpose of Rule

The Office of Administrative Trials and Hearings (OATH) is updating the deadline for moving to reopen a default after a failure to appear and request a new hearing by increasing the time parties have to make such motions from 60 to 75 days.

Section one of this rule amends section 6-21 of title 48 of the Rules of the City of New York to change the deadline for requesting a new hearing after default from 60 days to 75 days.

Deleted material is in [brackets].

New text is underlined.

Section 1. Subdivisions (b) and (c) of section 6-21 of title 48 of the Rules of the City of New York is amended to read as follows:

§ 6-21 Request for a New Hearing after a Failure to Appear (Motion to Vacate a Default).

- (b) A first request for a new hearing after default by a Respondent that is submitted within [sixty (60)] seventy-five (75) days of the mailing or hand delivery date of the default decision will be granted. A request for a new hearing after default that is submitted by mail must be postmarked within [sixty (60)] seventy-five (75) days of the mailing or hand delivery date of the default decision.
- (c) A request for a new hearing after default that is submitted after [sixty (60)] seventy-five (75) days of the date of the mailing or hand delivery date of the default decision must be filed within one (1) year of the date of the default decision and be accompanied by a statement setting forth a reasonable excuse for the Respondent's failure to appear and any documents to support the request. The Hearing Officer will determine whether a new hearing will be granted.