

**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 provide more time for moving to reopen a default and request a new hearing in OATH's Hearings Division.

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 12:00 p.m. on April 5, 2022**. The hearing will be conducted by videoconference and is accessible by:

- **Internet Video and Audio.** For access, visit:
<https://nyc-oath.webex.com/nyc-oath/j.php?MTID=mfad5cf5ab2a31a7024a4268f2538b45e>

When prompted, enter Meeting ID: 2342 385 9437
Password: **OATH**

- **Phone.** For access, dial: 1-646-992-2010
When prompted, enter Meeting ID: **23423859437##**

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, 66 John Street, 11th Floor, New York, NY 10038.
- **Fax.** You can fax written comments to OATH, Attention: Joy Thompson, Assistant General Counsel, at (212) 436-0714.
- **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 April 5, 2022**.

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 **April 4, 2022**.

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 1049 and 1043 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

The Office of Administrative Trials and Hearings (OATH) proposes to update 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 proposed rule would amend 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.

**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: Amendment of Procedural Rules of OATH Hearings Division

REFERENCE NUMBER: 2022 RG 001

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: February 1, 2022

**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: Amendment of Procedural Rules of OATH Hearings Division

REFERENCE NUMBER: OATH-ECB-112

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

February 2, 2022
Date