Where is a charge against a registrant heard, and what becomes of subdivision (d) of Section 101-07?

I am a New York State licensed professional engineer, License No. 107881, commenting in an individual capacity on proposed rule DOB-216 / 2026 RG 048. No allegation of misconduct by any individual is made or implied. I raise this as a drafting and clarity question and not as an objection to the Department holding disciplinary authority over these inspectors.

Each of the three amended paragraphs adds a subparagraph (viii) permitting the Department to refuse renewal on any ground that would constitute a basis for denial, suspension or revocation pursuant to Administrative Code Section 28-401.19, and a subparagraph (ix) permitting corrective action including probation, suspension or revocation in accordance with Section 28-401.19.1, with a summary suspension of up to fifteen days where public safety may be imminently jeopardized. Each subparagraph (ix) opens with the words "Notwithstanding subdivision (d) of this rule."

Four questions follow.

First, on the scope of Article 401. Administrative Code Section 28-401.19 is captioned "Suspension or revocation of license or certificate of competence" and sits in Article 401 of Chapter 4 of Title 28, which is titled "Licensing and Registration of Businesses, Trades and Occupations Engaged in Building Work." Its operative language addresses licenses and certificates of competence. QEWI, QPSI and QRWI status arises under Article 114 and under 1 RCNY 101-07, which governs approved agencies, and this rule is promulgated under Articles 112 and 114 rather than Article 401. Applying an Article 401 provision by cross-reference to a registration created under Article 114 may be entirely proper, but the Department should state on what basis, particularly given that the Law Department certification of July 31, 2026 attests under Charter Section 1043(d)(ii) that the rule is not in conflict with other applicable rules.

Second, on monetary exposure. Section 28-401.19 authorizes not only suspension and revocation but a fine of up to twenty-five thousand dollars for each finding of violation. Subparagraph (viii) invokes that section as a source of grounds and subparagraph (ix) invokes Section 28-401.19.1 as a source of corrective action. Neither states whether the monetary penalty is imported along with the grounds. Given that this would be a new and substantial exposure for individual licensed professionals, the rule should resolve it expressly.

Third, on subsection numbering. Subparagraph (ix) attributes to Section 28-401.19.1 the authority for corrective action including probation. The Department's own rule at 1 RCNY 104-07(b) refers to Section 28-401.19.1 in connection with summary suspension. The subsections within Section 28-401.19 have been renumbered across code editions. I ask the Department to confirm that each cross-reference in subparagraphs (viii) and (ix) points to the provision intended in the current codification.

Fourth, and most practically, on forum. 1 RCNY 104-07(a) provides that disciplinary hearings under Section 28-401.19 seeking suspension or revocation against a licensee or holder of a certificate of competence are held before the Office of Administrative Trials and Hearings. If subparagraph (ix) routes discipline of these registrations through Section 28-401.19, does it follow that these proceedings go to that tribunal? The rule does not say.

Nor does it say what becomes of the existing process. Subdivision (d) of Section 101-07 is the existing disciplinary provision applicable to approved agencies. This proposal does not amend it, does not state whether it continues to apply to these three inspector types in any respect, and does not identify what procedural protections are gained or lost by the substitution. A registrant reading the final rule should be able to determine, without cross-referencing three separate documents, where a charge against them is heard, what notice they receive, what standard of proof applies, and what review is available. The same gap appears in subparagraph (viii), which states that refusal to renew follows notice and an opportunity to be heard without identifying the forum, the timeframe, or the form of that hearing.

REQUESTS

State the basis on which Article 401 provisions are applied to registrations created under Article 114.

State expressly whether the monetary penalty authorized by Section 28-401.19 applies to these registrations, and if so, address it in the Charter Section 1043(d) compliance cost certification.

Confirm the accuracy of each cross-reference in subparagraphs (viii) and (ix) against the current codification.

State in the rule text the forum in which proceedings under subparagraphs (viii) and (ix) are heard, and state whether and to what extent subdivision (d) of Section 101-07 continues to apply to qualified exterior wall, parking structure and retaining wall inspectors.