



NEW YORK CITY DEPARTMENT OF CORRECTION

Cynthia Brann, Commissioner
Office of the Commissioner
75-20 Astoria Boulevard, Suite 305
East Elmhurst, New York. 11370

718 • 546 • 0890
Fax 718 • 278 • 6022

January 2, 2019

Derrick D. Cephas, Chair
NYC Board of Correction
1 Centre Street, Room 2213
New York, NY 10007

RE: Limited Six (6) Month Variance Renewal Request from Minimum Standard §1-08(f) Regarding Access to Law Libraries at the Specialized Juvenile Detention Facility/Horizon Juvenile Center (HJC)

Dear Mr. Cephas:

Pursuant to §1-15(c) of the New York City Board of Correction's ("Board") Minimum Standards, the New York City Department of Correction ("Department") requests a six (6) month limited variance renewal from BOC Minimum Standard §1-08(f), "Access to Courts and Legal Services - Law libraries," requiring the existence of a physical law library at the Specialized Juvenile Detention ("SJD") facility/Horizon Juvenile Center (HJC), which was first granted by the Board on July 10, 2018. This renewal would take effect on January 10, 2019, the date that the current variance is set to expire.

As the Board is aware, in 2017 the Governor signed into law New York State's Raise the Age (RTA) legislation, which amended and enacted various provisions of law to raise the age of criminal responsibility from 16 to 18. This legislation changes the way 16 and 17-year-olds are prosecuted and detained.¹ RTA also amended state Correction Law to add a new section, 500-p, which prohibits the City from holding youth under 18 in a Rikers Island Correctional Facility or any facility located on Rikers Island after October 1, 2018. This population was removed from Rikers Island and is now housed in an SJD facility (Horizon), which is jointly licensed by the Office of Children and Family Services ("OCFS") and the State Commission on Correction ("SCOC") and jointly operated by ACS and DOC. Additionally, 17 year olds who do not yet fall under RTA are housed with the youth moved off Rikers (collectively "pre-RTA youth").

The Department is seeking the renewal of the limited variance from Minimum Standard §1-08(f) to allow the pre-RTA youth to be housed in facilities that do not have a "properly equipped and staffed law library," and instead allows provision of legal research via a tablet and an onsite Legal Coordinator. The Department is seeking a variance from §1-08 in part because the physical plant of Horizon cannot accommodate a full law library: this change in design would require extensive reconstruction and additional space that is not available. From a programmatic perspective, under the existing ACS juvenile detention model, law libraries are not provided in juvenile detention facilities; juvenile detainees are instead encouraged to consult with their attorneys. The primary focus at juvenile detention facilities is education, and therefore more space is given for this purpose.

¹ This part of the law goes into effect for 16 year olds on October 1, 2018, and on October 1, 2019 for 17 year olds.

As per the requirements of the existing variance, Horizon residents have been provided daily access to legal research via Lexis Nexis-enabled tablets and assistance from an onsite Legal Coordinator who is on site five days per week. Currently, residents may complete a Resident Law Library Request Form to request use of the tablets for research, to request an individualized session with the Legal Coordinator, or for both services. The Legal Coordinator's office hours are generally 11:00am to 1:00pm Monday to Friday, to enable youth's access to individualized appointments where they can get help with general legal questions, and obtain documents printed on their behalf. The Legal Coordinator's program hours are generally 3:00pm to 5:00pm Monday to Friday for individualized appointments for youth seeking to access the tablets for legal research. Additionally, the legal coordinator facilitates youths' access to a variety of templates for legal documents, mailing supplies, reference materials, printing, and notary services.

During the weekends, the resident's Case Manager facilitates the use of the tablets for legal research. To date, the residents have been able to access the tablets for at least two (2) hours per day, seven (7) days a week. Such access has been afforded to residents during daytime hours that do not conflict with schooling, programming, counseling, therapy sessions, and other daily social and recreational activities. The legal tablets have been accessible to residents from on or about October 25, 2018. For the months of October and November, there have been approximately 106 youth requests for use of tablets for legal research.

The Department appreciates the Board's consideration of this six (6) month limited variance renewal, which will allow the Department, in conjunction with ACS, to continue to provide Horizon residents with reasonable access to tablets for legal research during daytime hours that do not conflict with schooling, specialized programming, counseling/therapy sessions and other required daily activities.

Thank you for your consideration and attention to this matter.

Sincerely,



Cynthia Brann

cc: Martha King, Executive Director