



# AGENCY RULEMAKING

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# REASONS FOR RULEMAKING

Jurisdiction

Compliance

Technology

Clarifying  
Actions

# REASONS FOR RULEMAKING

Charter referendums / changes to jurisdiction:

Creation of Racial Profiling and Biased-Based Policing Investigations Unit

Jurisdiction

Compliance

Technology

Clarifying  
Actions

# REASONS FOR RULEMAKING

Compliance with Court Decisions:

Sexual Misconduct

Jurisdiction

Compliance

Technology

Clarifying  
Actions

# REASONS FOR RULEMAKING

New Technology:

Body-Worn Cameras

Jurisdiction

Compliance

Technology

Clarifying  
Actions

# REASONS FOR RULEMAKING

Corrective/Clarifying Actions to Match Current Practices:

Executive Director's Role in Re-Opening Old Cases

Jurisdiction

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Actions

# CITY ADMINISTRATIVE PROCEDURE ACT (CAPA)



## Regulatory Agenda

Published at the end of the fiscal year

Proposed rules Agency expects to  
publish in the new fiscal year.

Published in the City Record, CCRB  
website, and NYC Rules



## Not the final rulemaking agenda

It can be amended!

# CAPA



Certification

The diagram illustrates the CAPA (Corrective and Preventive Action) process flow. It consists of seven steps arranged in two rows. Each step is represented by a yellow rounded rectangle with a light blue shadow, giving it a 3D effect. The steps are: Certification, Publishing 1, Hearing, Comment, Approval, Publishing 2, and Take Effect. The first row contains the first four steps, and the second row contains the last three steps.

Publishing 1

Hearing

Comment

Approval

Publishing 2

Take Effect



# CAPA



Agencies submit proposed rules for certification by Law Department and Mayor's Office of Operations.

# CAPA



After certification, the Agency publishes the proposed rules in the City Record and on the NYC Rules website

# CAPA



The Agency then holds a public hearing.

# CAPA



The public has 30 days from publication to comment on the rule.

# CAPA

After the public hearing, the agency submits the final version of the rule to the Law Department for approval.



Approval

Publishing 2

Take Effect

# CAPA

After the Law Department approves the rule, the agency publishes the final adopted rule in the City Record and on the NYC Rules website.



Approval

Publishing 2

Take Effect

# CAPA

The rule takes effect 30 days after publication in the City Record, unless the adopted rule says otherwise.



Approval

Publishing 2

Take Effect

# CCRB RULEMAKING PROCESS

Board Directs General Counsel to Begin the Process

Board Discusses Potential Rules in Public Session

Board Votes to Authorize General Counsel to Draft

General Council Submits Drafts to Law Dept. + Office of Operations

General Council Submits Drafts to the Board for Discussion and Public Comment

Board votes to Approve New Rules in Public Session

General Counsel Finalizes and Publishes Rules



# TODAY'S STEPS

Board Directs General Counsel to Begin the Process

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# 2025-2026 PROPOSED AGENCY RULES

CHANGING  
LANGUAGE  
CONSISTENT  
WITH COURT  
DECISIONS

Police Benevolent Assn. of the  
City of NY, Inc. v NY City Civilian  
Complaint Review Bd., 2024 NY  
Slip Op 30003[U] [Sup Ct, NY  
County 2024]

## CHANGING LANGUAGE CONSISTENT WITH COURT DECISIONS

- Court found it irrational to use the term “Unable to Investigate” as a catch all category for previous findings of:
  - “Complainant Unavailable”
  - “Alleged Victim Unavailable”
  - “Complainant Uncooperative”
  - “Alleged Victim Uncooperative”
  - “Alleged Victim Unidentified”

CHANGING  
LANGUAGE  
CONSISTENT  
WITH COURT  
DECISIONS

CCRB did not appeal and will  
reinstate the former terms.

CORRECTIVE  
ACTION TO  
CIVILIAN AND MOS  
POST-COVID  
INTERVIEW  
PROCESS

Prior to March 2020, all civilian and MOS interviews were conducted in-person at the CCRB.

## PRE-COVID INTERVIEW PROCESS

- MOS verbally agreed to abide by the Patrol Guide\*:
  - Absent exceptional circumstances, an officer will be dismissed from the Police Department for intentionally making a false official statement.
- No swearing in or oath taking.

\*Procedure 211-14 and 203-08 (now AG 304-10)

## PRE-COVID INTERVIEW PROCESS

Civilians were told that at the start of the interview that they will have to sign a verification form at the end.



## PRE-COVID INTERVIEW PROCESS

The Investigator, who is a registered Commissioner of Deeds, would witness the signature and sign the form.

## POST-COVID INTERVIEW PROCESS

- In March 2020, CCRB pivoted to remote interviews due to COVID pandemic.
- CCRB switched to a recorded verification process.

## POST-COVID INTERVIEW PROCESS

- MOS continue to verbally agree to comply with Patrol Guide Procedure 211-14 and Administrative Guide Procedure 304-10.

## POST-COVID INTERVIEW PROCESS

- Civilian interviewees verbally swear or affirm that the statements they made in connection with the case are true to their knowledge.

## POST-COVID INTERVIEW PROCESS

- Language akin to the verification in Rule 1-24
- The Charter does not specify the means by which interviews must be conducted.

## POST-COVID INTERVIEW PROCESS

- Statements made to the CCRB are not testimony and do not rise to the level of an administrative or court proceeding requiring a formal oath.

## POST-COVID INTERVIEW PROCESS CON'T

- Many civilians, and almost all members of the Lieutenant's Benevolent Association, opt to conduct their interviews remotely.
- CCRB data proves that continuing to provide the option for remote interviews was not arbitrary and capricious.

## POST-COVID INTERVIEW PROCESS CON'T

The number of full investigations that the CCRB is able to complete has increased drastically and has confirmed the findings of the 2020 Blake Fellow Report.



FORMAL  
PROCEDURES TO  
GOVERN CIVILIAN  
COMMENT PERIOD  
AT PUBLIC BOARD  
MEETINGS

Consistent with NYC Open Meetings Law, formalize procedures for public participation at CCRB Board meetings.

FORMAL  
PROCEDURES TO  
GOVERN CIVILIAN  
COMMENT PERIOD  
AT PUBLIC BOARD  
MEETINGS

- Chair to set the length of public comment.
- The Chair may order the removal of any person who engages in disrespectful behavior towards Board Members or staff or otherwise disrupts the meeting.



QUESTIONS?

ANNEX

## CAPA CON'T

- Agencies submit new proposed rules for certification by Law Department and Mayor's Office of Operations
  - Law Department certifies the rules for legal issues
  - Mayor's Office of Operations certifies for plain language, compliance cost and the presence of a cure period.
- After certification, the agency publishes the proposed rules in the City Record and on the NYC Rules website and then holds a public hearing.
  - The public has 30 days from publication to comment on the rule via email, regular mail, fax, online on NYC Rules, or in person at the hearing.

## CAPA CON'T

- After the public hearing, the agency submits the final version of the rule to the Law Department for approval.
- After the Law Department approves the rule, the agency publishes the final adopted rule in the City Record and on the NYC Rules website.
- The rule takes effect 30 days after publication in the City Record, unless the adopted rule says otherwise.

# 2025-2026 PROPOSED AGENCY RULES

## CHANGING LANGUAGE CONSISTENT WITH COURT DECISIONS

- *Police Benevolent Assn. of the City of NY, Inc. v NY City Civilian Complaint Review Bd.*, 2024 NY Slip Op 30003[U] [Sup Ct, NY County 2024]
- Court found it irrational to use the term “Unable to Investigate” as a catch all category for previous findings of “Complainant Unavailable,” “Alleged Victim Unavailable,” “Complainant Uncooperative,” “Alleged Victim Uncooperative,” and “Alleged Victim Unidentified.”
- CCRB did not appeal and will reinstate the former terms

# 2025-2026 PROPOSED AGENCY RULES

## CORRECTIVE ACTION TO CIVILIAN AND MOS POST-COVID INTERVIEW PROCESS

- March 2020 CCRB pivoted to remote interviews due to Covid pandemic/
  - Physical verification impossible
  - Commissioners of Deeds were not covered under the Emergency Executive Orders to permit remote signing of documents
  - Not everyone had the means, resources, and/or ability to print out, sign, and return a signed verification form.
- CCRB switched to a recorded verification process
  - MOS continue to verbally agree to comply with Patrol Guide Procedure 211-14 and Administrative Guide Procedure 304-10
  - Civilian interviewees verbally swear or affirm that the statements they made in connection with the case are true to their knowledge
    - Language akin to the verification in Rule 1-24
    - The Charter does not specify the means by which interviews must be conducted.
    - Statements made to the CCRB are not testimony and do not rise to the level of an administrative or court proceeding requiring a formal oath



## POST-COVID INTERVIEW PROCESS CON'T

- Many civilians, and almost all members of the Lieutenant's Benevolent Association, opt to conduct their interviews remotely
- The number of full investigations that the CCRB is able to complete has increased drastically and has confirmed the findings of the 2020 Blake Fellow Report
- CCRB data proves that continuing to provide the option for remote interviews was not arbitrary and capricious

## 2025-2026 PROPOSED AGENCY RULES

### FORMAL PROCEDURES TO GOVERN CIVILIAN COMMENT PERIOD AT PUBLIC BOARD MEETINGS

- Consistent with NYC Open Meetings Law, formalize procedures for public participation at CCRB Board meetings
  - Chair to set the length of public comment
  - The Chair may order the removal of any person who engages in disrespectful behavior towards Board Members or staff or otherwise disrupts the meeting