



**NEW YORK CITY
DEPARTMENT OF HEALTH AND MENTAL HYGIENE**

Notice of Adoption of Rule Regarding Performance Summary Cards

A Notice of Public Hearing and Opportunity to Comment on a proposal by the Department of Health and Mental Hygiene (“Department”) to amend Chapter 3 of Title 24 of the Rules of the City of New York, regarding performance summary cards, was published in the City Record on February 25, 2025. A virtual public hearing was held on March 27, 2025. No one testified at the hearing. Two written comments were received. Following the hearing and review of the written comments, the Department decided to adopt the rule without substantive amendment, and it now adopts such rule as indicated below.

Statement of Basis and Purpose

Social Services Law section 390-j (or “the Law”) requires the Department to issue performance summary cards (“PSC(s)”) to each child care program required to obtain a permit to operate in New York City and to adopt related regulations. The Law further requires that the PSC “summarize recent [health and safety] inspection violations and suspensions as required by rules promulgated by the department issuing such card.” Effective January 28, 2018, the Department enacted such rules in a new Chapter 3 (“Performance Summary Cards and Penalties for Child Care Programs”) of Title 24 of the Rules of the City of New York.

In December 2021, the Department amended Chapter 3 to modify the contents of the PSCs. Those amendments classified PSC violations into two categories: facility maintenance violations and program operations violations. Those amendments also distinguished violations within each category based on risk level (i.e., “Low” or “High” risk), and established display ratings (i.e., “Excellent”, “Satisfactory”, or “Needs Improvement”) for each category of violations based on the number of violations a program received in that category and the risk level of such violations. The December 2021 amendments, however, provided for a level of detail in the PSC that proved unnecessary and presented complications. Specifically, the violation categories and risk levels were not easily understood by the public; the display ratings did not allow parents and caregivers to accurately compare child care facilities because such facilities were often assessed at different times; and technological constraints made implementation of Chapter 3 as written difficult.

Given these complications, the Department now adopts amendments to Chapter 3 to adhere to Social Services Law section 390-j in a manner that is consistent with the information displayed on the Department’s Child Care Connect website. Providing consistent information on the website and PSC will help caregivers and providers assess the performance of their child care programs.

The amendments are as follows:

Underlined language is new.

Language in [brackets] is to be deleted.

Ellipses (***) indicate unamended text.

Section 1. Section 3-02 of Chapter 3 of Title 24 of the Rules of the City of New York is amended to read as follows:

§ 3-02 Definitions.

When used in this Chapter, the following terms have the following meanings:

["**Adjudicated violation**" means a cited violation of the Health Code or Department rules sustained following a hearing or default, pursuant to a decision by a hearing officer at the Office of Administrative Trials and Hearings ("OATH") or pursuant to a settlement agreement between the Department and a child care program, to the extent that such decision or settlement agreement remains in effect. "Adjudicated violation" also includes cited violation for which a hearing has not been held but for which the hearing date has been rescheduled at the request of the child care program more than one time.

"**Facility maintenance violation**" means a violation of the Health Code or Department rules related to the physical space of the child care, reflecting an environmental hazard or other physical deficiency in the real property covered by the permit, including but not limited to a violation of requirements related to internal and external spaces, physical plant, equipment and structural maintenance, sanitation, egress, fire and general safety, lighting, ventilation, plumbing, food safety or pest control.

"**Higher risk violation**" means a violation, other than a violation of this Chapter, with a penalty amount fixed by the Health Code or Department rules at over \$200.

"**Initial inspection**" means an inspection conducted other than for the purpose of ascertaining whether a prior violation has been abated, or in response to a complaint.

"**Lower risk violation**" means a violation with a penalty amount fixed by the Health Code or Department rules at \$200, or a violation of this Chapter.]

"**Permit**" means a permit issued by the Department pursuant to Article 47 of the Health Code.

"**Permit suspension**" means a [suspension] closure of a child care program['s permit to operate] due to a violation of the Health Code or any rule promulgated by the Department[, other than a suspension that is subsequently vacated].

["**Program operations violation**" means a violation of the Health Code or Department rules related to permitting, written safety plan, staff qualifications, clearances, training, child supervision, child and staff health requirements, personal hygiene, child development policies, performance summary cards, records or documentation, Department inspections, or any other violation of the Health Code or Department rules that does not constitute a facility maintenance violation.]

"**Site**" means the location, specified in a permit, where child care services are provided.

["**Teaching staff**" means the education directors, group teachers, assistant teachers, and teacher aides of a child care program.]

§ 2. Subdivision b of section 3-03 of chapter 3 of Title 24 of the Rules of the City of New York is amended to read as follows:

(b) A performance summary card issued to a child care program shall include the following information, as known as of the date such card is issued:

(1) [the number of full years the child care program has been permitted to operate at the site, except that more than 10 years of operation shall be indicated by "10+" and less than one year of operation shall be indicated by "<1";

(2) the number of children permitted to be cared for by the child care program at the site at any time;

- (3) the number of teaching staff employed by the child care program at the site;
- (4) the number of permit suspensions of the child care program's permit at the site during the previous three years] a summary of inspection results for the 12 months preceding issuance of the card; and

[(5)] (2) information on how to find the child care program's inspection record for the site online.

§ 3. Subdivision c of section 3-03 of chapter 3 of Title 24 of the Rules of the City of New York, relating to information from the prior year required to be included in performance summary cards, is REPEALED.

§ 4. Section 3-05 of chapter 3 of Title 24 of the Rules of the City of New York is amended to read as follows:

§ 3-05 Updated Performance Summary Cards.

Upon request from a child care program [based on a change to the number of adjudicated violations for the prior calendar year that would change either of the program's ratings], the Department [shall] will provide such program with an updated performance summary card. The Department may also provide an updated performance summary card to reflect a new permit suspension. Updated performance summary cards shall reflect a child care program's [adjudicated] violations that were cited by the Department in the prior [calendar year] 12 months and permit suspensions imposed in the [36] 12 months prior to the date of issuance. Upon receipt of an updated performance summary card, the child care program shall post [the] such updated card and dispose of the prior performance summary card in a manner that prevents its reuse.

§ 5. Subdivision a of section 3-06 of chapter 3 of Title 24 of the Rules of the City of New York is amended to read as follows:

(a) The holder of a permit of a child care program or any other person found to be in violation of any of the following provisions by a hearing officer at [OATH] the Office of Administrative Trials and Hearings or a successor tribunal must pay the following penalties for each such violation sustained:

(1) [For a violation of any provision of Article 47 of the Health Code for which a fixed penalty is not established by the Health Code or any other rule of the Department: \$200;

(2)] For a violation of Section 3-04(a) of this Chapter for operating without posting a performance summary card issued to the program: \$500; and

[(3)] (2) For a violation of any other requirement of this Chapter: [\$500] \$200.