

Notice of Adoption of Final Rule

New York City Mayor's Office of Media and Entertainment

Background

Notice is hereby given pursuant to the authority vested in the Mayor's Office of Media and Entertainment by § 1043 of the New York City Charter and § 3-119.4 of the New York City Administrative Code, that the Mayor's Office of Media and Entertainment promulgates and adopts rules relating to press credentials.

The proposed rules were published in the City Record on January 18, 2024, and a public hearing was held on March 20, 2024. Comments were received from two press associations and a media attorney, and certain issues they raised resulted in revisions to the rule as originally proposed. These changes include allowing MOME to consider safety factors when reviewing a Single Event Press Card application of a person under 18 years old, and to allow MOME to issue a badge or other identification be worn by an adult accompanying a Single Event Press Card holder under 18 years old.

The final rule takes effect on March 7, 2025. The Notice of Adoption, the Statement of Basis and Purpose of Final Rules, and the final rules will be available on MOME's website (<https://www.nyc.gov/site/mome/press-card/press-card.page>) and NYC RULES (<https://rules.cityofnewyork.us/recently-adopted-rules>).

Statement of Basis and Purpose

The Mayor's Office of Media and Entertainment ("MOME") currently comprises four divisions: the Film Office, which coordinates film and television production through the five boroughs; NYC Media, the largest municipal television and radio broadcasting entity in the country with a reach of 18 million viewers within a 50-mile radius; Creative Sector Programs, which supports the economic and workforce development of NYC's creative industries (film, television, theatre, music, publishing, advertising, and digital content); and the Press Credentials Office (also known as the Press Credentials Unit), which administers and oversees the press credentials issuance program.

MOME is amending its existing press credential rules to:

- 1) allow a person under 18 years old to apply for a Single Event Press Card,
- 2) require that an adult accompany a Single Event Press Card holder under 16 years old unless such requirement is waived by MOME,

- 3) provide MOME with the discretion to require that an adult accompany a Single Event Press Card holder who is 16 years old until such Single Event Press Card holder is 18 years old,
- 4) require Standard Press Card holders and Reserve Press Card authorized users to be at least 18 years old,
- 5) require an adult to provide written consent for a Single Event Press Card applicant under 18 years old,
- 6) provide access only to public events of a non-emergency nature or events sponsored by the City of New York open to the press for a Single Event Press Card holder under 18 years old,
- 7) allow an authorized representative of a newsgathering organization to pick up a Reserve Press Card(s) from MOME's offices,
- 8) authorize a Single Event Press Card holder to return the press card via mail to MOME,
- 9) remove "pled guilty" from 43 RCNY § 16-06,
- 10) allow MOME to deny an application or seek suspension of a press credential for misuse or misrepresentation of a press credential issued by the City of New York regardless of whether the person is acting in a news gathering capacity,
- 11) align the criteria for MOME to deny a press card application with the criteria for MOME to seek suspension of a press card, and
- 12) allow MOME to seek the suspension of a newsgathering organization's Reserve Press Card when the individual using the Reserve Press Card is ineligible to use the card or engages in prohibited conduct.

Public Comment and MOME's Response

MOME received written and verbal comments from the public as described in greater detail below. Based upon the consideration of testimony at the March 20, 2024 hearing, and written comments, MOME incorporated the following revisions in the final rules:

- Added that MOME may consider certain safety factors when reviewing a Single Event Press Card application of a person who is under 18 years old, such as the person's age and potential safety risks of the event; and
- Added that MOME has the discretion to require an adult accompanying a Single Event Press Card holder who is under 18 years old to wear a badge or other identification.

This part is divided into two sections. First, MOME enumerates certain aspects of the proposed rule that were not substantially addressed in public comments. Second, MOME evaluates comments suggesting changes to the proposed rules.

Section A. Aspects of Rule Which Were Not the Subject of Comments

- An authorized representative of a newsgathering organization can pick up a Reserve Press Card(s) from MOME's offices (43 RCNY § 16-04(g)).
- A Single Event Press Card holder may mail back the press card to MOME (43 RCNY § 16-05(i)).
- MOME can seek to suspend a newsgathering organization's Reserve Press Card when an individual using such card is ineligible or engages in prohibited conduct (43 RCNY § 16-06(b)(iv)(A) & (B)).
- The removal of "pled guilty" in § 16-06(a)(ii)(E), § 16-06(b)(iii)(A) and § 16-06(b)(iv)(A).

Section B. Suggested Enhancements and Clarifications

Public comments were offered to modify MOME's press card program in ways not fully delineated or contemplated in the proposed rule:

- **Public Comment:** One commenter asked how the police will recognize an adult who is required to accompany a Single Event Press Card holder who is under 18 years old to an event.

MOME Response: MOME agrees that this could be a concern depending on the specific event. Accordingly, MOME has modified the proposed rule to allow MOME discretion to require an adult accompanying a Single Event Press Card holder to wear a badge or other identification issued by MOME (43 RCNY § 16-02(f)).

- **Public Comment:** One commenter indicated that the proposed rule does not state that one adult must accompany each Single Event Press Card holder under 18 years old, which could result in one adult accompanying several Single Event Press Card holders to an event (for example, one teacher for several students holding Single Event Press Cards for an event).

MOME Response: The intent of the rule is that one adult must accompany no more than one child per event. Accordingly, MOME has modified 43 RCNY § 16-02(d) for Single Event Press Card holders under 16 years old and added a new subsection (e) for Single Event Press Card holders 16 years old until 18 years old.

Public Comment: One commenter asked how many Single Event Press cards can be issued to a person who is under 18 years old.

MOME Response: The rule does not place limits on the number of Single Event Press Cards that can be issued to an individual regardless of age. Therefore, no additional language is necessary.

- **Public Comment:** One commenter asked if the rules to suspend or revoke press cards apply to individuals below 18 years old.

MOME Response: MOME declines to incorporate additional clarifying language into the final rule. The rules for suspension or revocation of press cards do not specify age limits.

- **Public Comment:** Two commenters expressed concerns for the safety of Single Event Press Card holders under 18 years old covering events, such as the possibility that the event could become violent or there could be space limitations.

MOME Response: MOME agrees that this could be a concern depending on the specific event. Accordingly, MOME has added a new subparagraph (C) to paragraph (iv) of subdivision (e) of section 16-05, which specifies safety criteria for MOME to consider when deciding whether to issue a Single Event Press Card to a person under 18 years old.

- **Public Comment:** One commenter indicated that having an adult accompany a Single Event Press Card holder who is under 18 years old to an event may create challenges for an adult who must work or is unable to attend the event. The commenter acknowledged that the revised rules allow MOME to waive this requirement but requested MOME to specify criteria for the waiver.

MOME Response: MOME agrees that this could be a concern and notes that it has modified § 16-02(d)(i), which requires MOME to consider specific safety factors delineated in new § 16-05(e)(iv)(c) when determining whether to waive the requirement that an adult accompany a Single Event Press Card holder.

- **Public Comment:** One commenter expressed concern that having Standard Press Card holders and Reserve Press Card authorized users be at least 18 years old will result in those under 18 years old with a strong interest in journalism to miss out on gaining experience to become better journalists and they will not be able to report on matters of public concern for their school or neighborhood papers.

MOME Response: MOME declines to incorporate additional language into the final rule. MOME supports young journalists who want to develop newsgathering skills. The revised

rules allow those under 18 years old to apply for Single Event Press Cards, which will allow them to report on matters of public concern for their school or neighborhood papers and allows MOME to assess each event for safety concerns for young journalists.

- **Public Comment:** One commenter expressed concern that limiting Single Event Press Card applicants under 18 years old only to events of a non-emergency nature or events sponsored by the City of New York that are open to members of the press would curtail the ability of those individuals to gain experience covering breaking news events and later impact their ability to meet the requirements to apply for a Standard Press Card.

MOME Response: MOME declines to incorporate additional language into the final rule. MOME supports young journalists who want to develop newsgathering skills but must balance the need to protect the safety of those behind police, fire, or other City barriers during emergency and non-emergency events and at press conferences. The revised rules allow those under 18 years old to apply for Single Event Press Cards to develop journalism experience, while balancing the need to maintain public safety.

- **Public Comment:** One commenter expressed concern that the addition of § 16-06(a)(ii)(H) (allowing MOME to deny a press card application if the applicant engaged in conduct delineated in § 16-06(b)(iii)(B)-(F)) could result in an applicant who has served a prior suspension to be denied a new press card.

MOME Response: MOME declines to incorporate additional language into the final rule. The rules do not allow MOME to solely deny an application if the applicant has completed a period of prior suspension. However, pursuant to § 16-06(a)(ii)(F), MOME can deny an application if “[t]he applicant failed to complete a period of suspension or revocation concerning a previously issued press credential.”

Final Rule Amendments

“Shall” and “must” denote mandatory requirements and may be used interchangeably unless otherwise specified or unless the context clearly indicates otherwise.

New material is underlined.

[Deleted material is in brackets.]

Section 1. Section 16-02 of chapter 16 of Title 43 of the Rules of the City of New York is amended by adding new subdivisions (d) and (e), to read as follows:

§ 16-02 Press Card Access.

- (d) A Single Event Press Card holder who is under sixteen (16) years old:

 - i. must be accompanied by a parent, a legal guardian, or a responsible adult who is at least eighteen (18) years old when seeking to cross police or fire lines, or other restrictions, limitations, or barriers established by the City of New York or attend events sponsored by the City of New York, and at all times after such access has been granted. Only one parent, legal guardian, or responsible adult must accompany no more than one Single Event Press Card holder who is under sixteen (16) years old to each event for which the Single Event Press Card is issued.
 - ii. In the discretion of the Commissioner or the Commissioner's designee, the Mayor's Office of Media and Entertainment may waive this requirement for a Single Event Press Card holder who is under sixteen (16) years old taking into account the criteria listed in § 16-05(e)(iv)(C);
- (e) A Single Event Press Card Holder who is sixteen (16) years old to eighteen (18) years old: In the discretion of the Commissioner or the Commissioner's designee, the Mayor's Office of Media and Entertainment may require, after taking into account the criteria listed in § 16-05(e)(iv)(C), that the Single Event Press Card holder be accompanied by a parent, a legal guardian, or a responsible adult who is at least eighteen (18) years old when seeking to cross police or fire lines, or other restrictions, limitations, or barriers established by the City of New York or attend events sponsored by the City of New York, and at all times after such access has been granted. Only one parent, legal guardian, or responsible adult must accompany no more than one Single Event Press Card holder who is sixteen (16) years old until eighteen (18) years old to each event for which the Single Event Press Card is issued.
- (f) In the discretion of the Commissioner or the Commissioner's designee, the Mayor's Office of Media and Entertainment may require the person accompanying the Single Event Press Card Holder pursuant to § 16-02(d) or § 16-02(e) to wear a badge or other identification issued by PCU.

§ 2. Subdivision (a) of section 16-03 of chapter 16 of Title 43 of the Rules of the City of New York is amended to read as follows:

- (a) To be eligible for a Standard Press Card, an individual must be a member of the press who is at least eighteen (18) years old and who covers, in person:
 - i. emergency, spot, or breaking news events, or public events of a non-emergency nature where police or fire lines, or other restrictions, limitations, or barriers established by the City of New York have been set up for security or crowd control purposes; or
 - ii. events sponsored by the City of New York that are open to members of the press.

§ 3. Subdivisions (g) and (h) of section 16-04 of chapter 16 of Title 43 of the Rules of the City of New York are amended to read as follows:

- (g) An [editor or supervising employee] authorized representative of a newsgathering organization must appear in person to pick up the Reserve Press Card(s) if the application is approved. If the newsgathering organization was issued a Reserve Press Card(s) during the previous cycle, it must surrender all such card(s) in person to MOME. If such card(s) was lost or stolen, it must provide a Verification of Crime/Lost Property Report issued by the NYPD.
- (h) [Any editor or supervising employee of a] The newsgathering organization holding a Reserve Press Card(s) may provide a Reserve Press Card to an individual who is a member of the press employed or engaged by the newsgathering organization if:
 - i. such individual does not already have a Standard Press Card issued in accordance with § 16-03 of this chapter;
 - ii. such individual is not currently subject to a period of suspension or revocation of a Standard Press Card or Single Event Press Card, or such individual's conduct within the past six (6) months is not characterized by any of the criteria for suspension or revocation set forth in paragraph (iii) of subdivision (b) or paragraph (iii) of subdivision (c) of § 16-06; [and]
 - iii. the newsgathering organization directs such individual to complete a specific assignment that requires the individual to cover, in person:
 - (A) an emergency, spot, or breaking news event, or a public event of a non-emergency nature, where police or fire lines, or other

restrictions, limitations, or barriers established by the City of New York have been set up for security or crowd control purposes; or

(B) [cover, in person,] an event sponsored by the City of New York that is open to members of the press; and

iv. such individual is at least eighteen (18) years old.

§ 4. Subdivisions (e) and (i) of section 16-05 of chapter 16 of Title 43 of the Rules of the City of New York are amended to read as follows:

(e) An individual may

- i. pre-register by completing an application that includes such applicant's personal identifying information and the name of the newsgathering organization, if any, that employs the individual. The applicant must submit six (6) or more articles, commentaries, books, photographs, videos, films, or audios published, broadcast, or cablecast within the twenty-four (24) months immediately preceding the pre-registration, sufficient to show that such applicant covered, in person, six (6) or more events occurring on separate days; [and]
- ii. apply for a Single Event Press Card by providing information that describes the Single Event, including the date(s) and location(s) of such Single Event; and
- iii. apply for a renewal of a Single Event Press Card upon a demonstration that the Single Event is continuing beyond the expiration of the Single Event Press Card that has been issued to such individual. [;]

iv. If the individual is under eighteen (18) years old:

- (A) the individual may apply for a Single Event Press Card that provides access to a public event of a non-emergency nature or an event sponsored by the City of New York that is open to members of the press;
- (B) the individual's parent or legal guardian must provide their consent in writing on a form provided by MOME. The parent or legal guardian's consent must be submitted with each pre-registration application, each Single Event Press Card application, and each renewal application, and

(C) In the discretion of the Commissioner or the Commissioner's designee, PCU may consider factors such as the individual's age, nature of the event, the event's location, event's duration, space limitations, potential safety risks, available space behind police, fire lines or City barriers, and the impact of space limitations and the safety of individuals required to accompany the Single Event Press Card applicant pursuant to § 16-06(d), among other factors, when assessing whether to issue a Single Event Press Card to an individual under eighteen (18) years old.

- (i) Within three (3) business days of the expiration of a Single Event Press Card, the Single Event Press Card holder must either return the card in person to MOME, mail the card in a postage-paid envelope addressed to MOME, or provide the card to a courier or delivery service for delivery to MOME. MOME will post its address for mail and deliveries of Single Event Press Cards on its website. If such card is not received by MOME and the individual subsequently applies for a press credential, the individual must provide as a condition of receiving a press credential:
- i. a Verification of Crime/Lost Property Report issued by the New York City Police Department; or
 - ii. proof of mailing or use of a courier or delivery service in a form acceptable to MOME.

§ 5. Subdivisions (a) and (b) of Section 16-06 of Chapter 16 of Title 43 of the Rules of the City of New York are amended to read as follows:

- (a) Denial of application.
 - i. Right to appeal.
 - (A) Any applicant who is denied a press credential shall be notified in writing of the basis of the denial and their right to appeal the denial by requesting a hearing before the adjudicatory body authorized to conduct trials at the Office of Administrative Trials and Hearings ("OATH"), in accordance with § 1046 of the City Charter and Title 48 of the Rules of the City of New York.

- (B) An applicant seeking to appeal a denial to OATH must request, through MOME, a hearing within sixty-five (65) days of the date of the denial. The request to MOME must be in writing and submitted on a form prescribed by MOME, which shall process the request and forward to OATH all relevant documentation received from the applicant.
 - (C) Upon receipt of the request submitted through MOME, OATH will hold the hearing within sixty (60) days of the date the applicant's request was received by MOME, except where the parties jointly agree on a later hearing date, an adjournment is granted pursuant to OATH's rules of practice and procedures, or where extraordinary circumstances prevent such scheduling, as determined by the Chief Administrative Law Judge or their designee.
- ii. Criteria. One or more of the following criteria must be met to justify a denial of an application for a press credential:
 - (A) The applicant failed to meet the eligibility qualifications described in the definition of a "member of the press" or "newsgathering organization", as applicable, set forth in § 16-01 of this chapter; or
 - (B) The applicant failed to meet the eligibility requirements for the press credential; or
 - (C) The applicant failed to complete all administrative requirements or instructions set forth in these rules or in the application; provided, however, that MOME will notify the applicant of any incomplete requirements and provide an opportunity for the applicant to complete the application within five (5) business days of notification; or
 - (D) The applicant failed to truthfully respond to application questions or provided fraudulent proof of eligibility; provided, however, that the application will not be denied on the basis of an immaterial error in the application that is corrected by the applicant within five (5) business days of notification by MOME; or

- (E) The applicant (1) has an open case for a lawful arrest for[, pled guilty to,] or was convicted of a misdemeanor while newsgathering or has an open case for a lawful arrest for [,pled guilty to,] or was convicted of a felony; and (2) the Mayor's Office of Media and Entertainment determines that granting a press credential to such applicant would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public; or
- (F) The applicant failed to complete a period of suspension or revocation concerning a previously issued press credential; or
- (G) The applicant was responsible for the misconduct resulting in the suspension or revocation of a Reserve Press Card and such period of suspension or revocation has not expired[.] ; or
- (H) The applicant engaged in conduct set forth in paragraphs (B)-(F) of paragraph (iii) of subdivision (b) of this section.

(b) Suspension.

- i. Right to a hearing. MOME is the only agency authorized to suspend a press credential. A press credential may not be suspended by MOME prior to a hearing and a determination that a suspension is proper, based on the criteria set forth in paragraph (iii) of this subdivision. Upon MOME's determination that a press card was seized by an agency, office, official, or employee of the City of New York in violation of this paragraph, MOME shall promptly replace the press card.
- ii. Procedure and burden of proof. The hearing will be held before the adjudicatory body authorized to conduct trials at OATH, in accordance with section 1046 of the Charter and Title 48 of the Rules of the City of New York; provided, however, that consistent with subdivision (f) of § 3-119.4 of the New York City Administrative Code, the applicable burden of proof for a suspension of a press credential is clear and convincing evidence.
- iii. Criteria. One or more of the following criteria must be met to justify the suspension of a press credential. The Standard Press Card holder or Single Event Press Card holder:

- (A) (1) has an open case for a lawful arrest for[, pled guilty to,] or was convicted of a misdemeanor while newsgathering or has an open case for a lawful arrest for[, pled guilty to,] or was convicted of a felony and (2) continued use of the press credential would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public; or
- (B) while engaged in a newsgathering capacity, failed to comply with a lawful order of a police officer or an authorized person of the City agency(ies) or office(s) sponsoring the event; or
- (C) while engaged in a newsgathering capacity, intentionally interfered or attempted to interfere with the performance of an official function of a police officer or an authorized person of the City agency(ies) or office(s) sponsoring the event; or
- (D) misused or misrepresented [the] a press credential issued by the City of New York [while not acting in a newsgathering capacity]; or
- (E) conducted an unauthorized transfer or assignment of such credential [to an individual who had not been issued a press credential at the time of transfer or assignment]; or
- (F) engaged in other conduct that involved an unreasonable risk to property or to the safety or welfare of specific individuals or the general public or interfered with official law enforcement or emergency personnel needs while engaged in a newsgathering capacity.

iv. Reserve Press Cards. A newsgathering organization's Reserve Press Card(s) may be suspended if:

- (A) the newsgathering organization issues the Reserve Press Card to an authorized user who [meets at least one of the criteria] engages in conduct set forth in subparagraphs (A)-(F) of paragraph (iii) of this subdivision, [or such individual has an open case for a lawful arrest for, pled guilty to, or was convicted of a misdemeanor or a felony in connection with the use of the newsgathering organization's Reserve Press Card(s)] and (2) the newsgathering organization's continued use of a Reserve Press

Card(s) would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public; or

(B) the newsgathering organization issues the Reserve Press Card to an individual who does not meet all criteria set forth in paragraph (h) of Section 16-04.

v. Period of suspension.

(A) The hearing officer will consider the following factors in determining the length of a suspension:

1. whether misconduct actually occurred;
2. the seriousness of any misconduct;
3. the risk that the press credential holder will engage in future misconduct or, in the case of a Reserve Press Card, the Reserve Press Card authorized user will engage in future misconduct;
4. the press credential holder's history of suspensions or a prior revocation, if any; and
5. any other factors raised by the parties at the hearing.

(B) The maximum length of a suspension shall be no more than six (6) months, except that if the suspension resulted from a lawful arrest or indictment based on the press credential holder's or Reserve Press Card authorized user's commission of a misdemeanor or felony, then the length of the suspension may be extended until resolution of the criminal proceedings, and, if an arrest results in a conviction or guilty plea, then the length of the suspension shall be the period of imprisonment that results from the conviction or guilty plea or six months, whichever is greater.

vi. Press credentials during suspension. If a Standard Press Card or a Single Event Press Card is suspended, the Standard Press Card holder or Single Event Press Card holder may not obtain or use a press credential during the period of suspension.

- vii. Expiration during suspension. If a press credential expires during suspension, the press credential holder may not apply for a new press credential until the period of suspension is complete.