



NEW YORK CITY DEPARTMENT OF CORRECTION

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November 7th, 2019

Jacqueline Sherman, Interim Chair
NYC Board of Correction
1 Centre Street, Room 2213
New York, NY 10007

RE: Renewal of Limited Six (6) Month Variance Request from Minimum Standard §1-08(f) “Law libraries” for Specialized Juvenile Detention Facility at Horizon Juvenile Center (HJC SJD)

Dear Ms. Sherman:

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 the renewal of the continuing variance from BOC Minimum Standard §1-08(f), “Law libraries,” requiring the existence of a physical law library at the Specialized Juvenile Detention (“SJD”) facility at Horizon Juvenile Center (HJC), which was first granted by the Board on July 10, 2018, and continued through January 8, 2020. This renewal is requested for six (6) months and would take effect on January 8, 2020, 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 (“Rikers youth”). This population was removed from Rikers Island and is now housed in an SJD facility at 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. The residential composite of the SJD is currently Rikers Youth and pre-RTA youth (17 year olds who, but for the provisions of Correction law 500-p, would have been detained at Rikers).

The Department is seeking the renewal of a limited variance from Minimum Standard §1-08(f) to allow the Rikers and 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 because there is a concern that youth may engage in legal research that may lead them to file papers that incriminate them, or otherwise take legal action that is not in their best interest. Juvenile detainees

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

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.

As per the requirements of the existing variance conditions, Horizon SJD residents have been provided daily access to legal research via Lexis Nexis-enabled tablets and assistance from an onsite Legal Coordinator. Currently, SJD 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 currently 3pm-7pm Monday to Friday, to enable youth's daily access to schedule individualized appointments including access to the tablets, to receive information on general legal questions, and to obtain documents printed on their behalf. The exact hours worked are subject to change, but will continue to be a minimum of 20 hours per week, as required by BOC. 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 SJD resident's Program Counselor facilitates the use of the tablets for legal research. To date, the SJD 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 SJD 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 SJD residents from on or about October 25, 2018.

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 SJD 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: Michelle Ovesey, Acting Executive Director & General Counsel