



NEW YORK CITY DEPARTMENT OF CORRECTION
Cynthia Brann, Commissioner

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Jennifer Jones Austin, Chair
NYC Board of Correction
1 Centre Street, Room 2213
New York, NY 10007

RE: Limited Six (6) Month Variance Request to Board of Correction Minimum Standards Section 1-02 Regarding Commingling Young Adults (18-21 Years Old) with Adults (22 Years Old and Older)

Dear Chair Jones Austin,

Pursuant to §1-15(f) of the New York City Board of Correction (“Board”) Minimum Standards, the New York City Department of Correction (“Department”) requests a six (6) month limited variance renewal from Board Minimum Standards, §1-02(c)(1), which requires that individuals in custody ages eighteen (18) through twenty-one (21) be housed separate and apart from individuals over the age of twenty-one (21). While the Department’s previous variance request applied only to young adults aged nineteen (19) through twenty-one (21) years old, the Department requests this variance renewal to additionally afford the commingling of eighteen (18) year-olds with adults in the additionally limited circumstances related only to COVID-19 quarantine new admissions housing and housing at the Rose M. Singer Center (“RMSC”). The Department requests this variance to take effect January 16, 2020, the date upon which the current related variance is set to expire.

The Department has made significant efforts to house all young adults in young adult only housing in units with robust programming services and resources. While the Department has been largely successful in housing young adults in young-adult-only environments, there remains a critical management need to commingle certain young adults with adults when a safe placement in young adult only housing is not available. Each commingling determination is made on a case-by-case basis in consideration of all alternative housing options, and with several layers of consideration and review. In these limited circumstances where commingling represents the only safe housing placement, the Department has worked diligently to provide all commingled young adults individualized support plans and access to robust counseling and programming services. As a result of this commitment, only forty-six (46) or 11% of young adults Department-wide were housed in units with adults as of December 28, 2020.¹

In addition to the limited behavioral and safety considerations, the Department also requires the ability to commingle young adults due to health and operational concerns related to the COVID-19 pandemic. Accordingly, the Department requests the additional ability to temporarily house eighteen (18) year-olds with adults in COVID-19 quarantine new admissions housing areas. The Department additionally requests the ability to commingle eighteen (18) year-olds at the Rose M. Singer Center (“RMSC”), where the low census of young adults presents housing challenges for young adults with separation or security considerations. The

¹ This figure includes young adults who are commingled for a medical purpose consistent with the 2015 continuing variance granted to the Correctional Health Service (“CHS”).

Department does not currently seek the ability to commingle eighteen (18) year-olds with adults in other housing area types or situations contemplated in the current variance conditions.

In accordance with the current variance, commingling is only permitted when a young adult is housed in a restrictive housing area with less than 14 hours lock-out (e.g., ESH); has engaged in violent or assaultive behavior towards staff or other people in custody; has engaged in actions that threaten the safety and security of the facility; qualifies for protective custody and cannot safely be housed in a young adult protective custody unit; is being quarantined as part of the new admission process during the COVID-19 emergency; has applied and been accepted into the Special Considerations Unit (“SCU”); has a centrally monitored case; or is a young adult housed at RMSC. Further, young adults who are commingled exclusively as a result of their involvement in violent or assaultive behavior, or whose actions threaten the safety and security of the facility, are only commingled in the Robert N. Davoren Center (“RNDC”). All individuals housed in RNDC are provided continued access to programmatic resources like the Programs, Education, and Community Engagement Center (“PEACE Center”).

The Department is committed to making commingling determinations on an individual basis, in writing, and in consideration of all alternative housing options in the limited circumstances presented in the current variance conditions. The Department is additionally committed to providing such determination to the young adult in writing within forty-eight (48) hours. In recognition of the importance of age-specific programming provision, the Department works diligently to provide individual support plans and access to young adult programming and supports for all commingled young adults. The Department has further engaged with interested Board members regarding the reintroduction of mentorship and violence-interruption services and is committed to continuing these discussions in furtherance of our shared goals with regard to the safe management of young adults.

The Department is further committed to ensuring transparency and access to Department information as it pertains to commingling practices for both the Board and the public. Accordingly, the Department continues to provide the Young Adult Monthly Progress Report to the Board for publication, as well as a bi-weekly report listing all commingling determinations and all associated paperwork. The Department began also providing a weekly census to the Board enumerating all housing areas where young adults are commingled, as well as the number of young adults who were moved from commingled to young adult housing during the preceding week.

The Department appreciates the Board’s consideration of this six (6) month limited variance renewal request, which would allow for the limited commingling of young adults (18-21 years-old) with adults (22-year-olds and older). Despite significant efforts to rehouse all commingled young adults, the Department is unable to fully comply with Minimum Standard §1-02(c)(1) without a serious risk of harm to the population and staff. We are committed, in partnership with the Board, to ensuring a safe and supportive management approach for all young adults in Department custody and will continue to refine our management approach to the individual needs of each young person in Department custody.

Sincerely,



Cynthia Brann

cc: Margaret Egan, Executive Director