



January 13, 2017

New York City Board of Correction
1 Centre Street
New York, NY 10007
Via Email

Dear Members of the Board of Correction,

Brooklyn Defender Services writes to express dismay at the Department of Correction's attempt to undermine the Board's oversight role through its inappropriate use of emergency variance requests. The Department's January 12, 2017 emergency request to keep 19-21 year old young adults in the Enhanced Supervision Housing (ESH) Unit should be rejected, a notice of violation issued, and all young adults immediately removed from the unit. They should have been removed immediately when the prior variance expired on January 11, 2017.

The Department had initially requested renewal of a previous variance permitting ESH placements for young adults, which was to be considered during the Board's January 10, 2016 meeting. However, the Department withdrew this initial request prior to its consideration at the meeting, thereby precluding any public deliberation and comment on the matter. On January 12, the Department submitted an emergency variance seeking the exact same authority. This appears to be an obvious attempt on the part of the Department to avoid the Board's oversight and flout city law. Furthermore, the Department has received variances on this exact issue for an entire year, and despite considerable time to figure out an alternative housing program, have failed to do so.

We urge the Board to reject this variance request. When the Board granted the initial limited variance, time limits were established precisely to allow the Board to review and discuss its renewal within a reasonable timeframe, at a public meeting. If the Department is not willing to defend its position that these placements are necessary, then the Variance should not be renewed and young people should be precluded from ESH, as required under rules adopted more than a year ago. Young people were precluded because the structure of the units may be harmful to their development, a reality that remains unchanged.

We request that you take immediate action to ensure that all young people are removed from ESH immediately and placed in age-appropriate housing. We also request that Board staff timely inform interested parties regarding the status of the variance request and enforcement of the minimum standards.

Thank you for your consideration.

Nick Malinowski, LMSW
Brooklyn Defender Services