§ 1209-a. Transit adjudication bureau. 1. Establishment. There is hereby created in the authority a transit adjudication bureau. The head of such bureau shall be the executive director, who shall be appointed by the president of the authority. The executive director may delegate the powers and duties conferred upon the executive director by this section to such qualified officers and employees of the bureau as he may designate.

2. Hearing officers. The president of the authority shall appoint hearing officers who shall preside at hearings for the adjudication of charges of transit or railroad infractions, as hereinafter defined and the adjudication of allegations of liability for violations of the rules and regulations of the triborough bridge and tunnel authority in accordance with section two thousand nine hundred eighty-five of this chapter, and who, as provided below, may be designated to serve on the appeals board of the bureau. Every hearing officer shall have been admitted to the practice of law in this state for a period of at least three years, and shall be compensated for their services on a per diem basis determined by the bureau.

3. Jurisdiction. The bureau shall have, with respect to acts or incidents in or on the transit or railroad facilities of the authority or the metropolitan transportation authority or a subsidiary thereof committed by or involving persons who are sixteen years of age or over, and with respect to violation of toll collection regulations of the triborough bridge and tunnel authority as described in section twenty-nine hundred eighty-five of this chapter, non-exclusive jurisdiction over violations of: (a) the rules which may from time to time be established by the authority under subdivision five-a of section twelve hundred four of this chapter; (b) article one hundred thirty-nine of the health code of the city of New York, as it may be amended from time to time, relating to public transportation facilities; (c) article four of the noise control code of the city of New York, as it may be amended from time to time, insofar as it pertains to sound reproduction devices; (d) the rules and regulations which may from time to time be established by the triborough bridge and tunnel authority in accordance with the provisions of section twenty-nine hundred eighty-five of this

chapter; and (e) rules and regulations which may from time to time be established by the metropolitan transportation authority or a subsidiary thereof in accordance with the provisions of section twelve hundred sixty-six of this chapter. Matters within the jurisdiction of the bureau except violations of the rules and regulations of the triborough bridge and tunnel authority shall be known for purposes of this section as transit or railroad infractions, as applicable. Nothing herein shall be construed to divest jurisdiction from any court now having jurisdiction over any criminal charge or traffic infraction relating to any act committed in a transit or toll facility, or to impair the ability of a police officer to conduct a lawful search of a person in a transit or railroad facility. The criminal court of the city of New York shall continue to have jurisdiction over any criminal charge or traffic infraction brought for violation of the rules of the authority, the triborough bridge and tunnel authority or the metropolitan transportation authority or a subsidiary thereof, as well as jurisdiction relating to any act which may constitute a crime or an offense under any law of the state of New York or any municipality or political subdivision thereof and which may also constitute a violation of such rules. The bureau shall have concurrent jurisdiction with the environmental control board and the administrative tribunal of the department of health over the aforesaid provisions of the health code and noise control code of the city of New York.

4. General powers. The bureau shall have the following functions, powers and duties:

a. To accept pleas (whether made in person or by mail) to, and to hear and determine, charges of transit and railroad infractions and allegations of civil liability pursuant to section two thousand nine hundred eighty-five of this chapter within its jurisdiction;

b. To impose civil penalties and to issue warnings for any transit or railroad infraction within its jurisdiction, in accordance with a penalty schedule established by the authority or the metropolitan transportation authority or a subsidiary thereof, as applicable, and the conditions set forth in subdivisions eleven and twelve of this section

and subdivision four of section twelve hundred sixty-six of this article, except that penalties for violations of the health code of the city of New York shall be in accordance with the penalties established for such violations by the board of health of the city of New York, and penalties for violations of the noise code of the city of New York shall be in accordance with the penalties established for such violations by law, and civil penalties for violations of the rules and regulations of the triborough bridge and tunnel authority shall be in accordance with the penalties established for such violations by section twenty-nine hundred eighty-five of this chapter;

c. In its sole discretion, to suspend or forgive penalties or any portion of penalties imposed on the condition that the respondent voluntarily agrees to perform and actually does satisfactorily perform unpaid services on transit or railroad facilities as assigned by the authority, such as, without limitation, cleaning of rolling stock;

d. To adopt, amend and rescind rules and regulations not inconsistent with any applicable provision of law to carry out the purposes of this section, including but not limited to rules and regulations prescribing the internal procedures and organization of the bureau, the manner and time of entering pleas, the conduct of hearings, and the amount and manner of payment of penalties;

e. To enter judgments and enforce them, without court proceedings, in the same manner as the enforcement of money judgments in civil actions, as provided below;

f. To compile and maintain complete and accurate records relating to all warnings, charges and dispositions, which records shall be deemed exempt from disclosure under the freedom of information law as records compiled for law enforcement purposes, and provided that, in the absence of an additional violation, records of a warning issued to an individual in accordance with paragraph a of subdivision eleven of this section shall be sealed or expunged as of the date that is four years after the date that such warning was issued;

g. To apply to a court of competent jurisdiction for enforcement of any decision or order issued by such bureau or of any subpoena issued by a hearing officer as provided in paragraph d of subdivision seven of this section;

h. To enter into contracts with other government agencies, with private organizations, or with individuals to undertake on its behalf such functions as data processing, debt collections, mailing, and general administration, as the executive director deems appropriate, except that the conduct by hearing officers of hearings and of appeals may not be performed by outside contractors, and that biometric identifying technology, including but not limited to facial recognition technology, may not be used or arranged for use by outside contractors to enforce or process transit and railroad infractions relating to the payment of fares;

i. To accept payment of penalties and to remit same to the authority or the metropolitan transportation authority or a subsidiary thereof, as applicable; and

j. To adjudicate the liability of motor vehicle owners for violations of rules and regulations established in accordance with the provisions of section two thousand nine hundred eighty-five of this chapter.

5. Notices of violation. The bureau shall prepare and distribute notices of violation in blank to the transit police and any other person empowered by law, rule and regulation to serve such notices. The form and wording of the notice of violation shall be prescribed by the executive director, and it may be the same as any other notice of violation or summons form already in use if said form meets the requirements hereof. The notice of violation may include provisions to record information which will facilitate the identification and location of respondents, including but not limited to name, address, telephone numbers, date of birth, social security number if otherwise permitted by law, place of employment or school, and name and address of parents or guardian if a minor. Notices of violation shall be issued only to persons who are sixteen years of age or over, and shall be served by

delivering the notice within the state to the person to be served. A copy of each notice of violation served hereunder shall be filed and retained by said bureau, and shall be deemed a record kept in the ordinary course of business, and, if sworn to or affirmed, shall be prima facie evidence of the facts contained therein. Said notice of violation shall contain information advising the person charged of the manner and the time within which such person may either admit or deny the offense charged in the notice. Such notice of violation shall also contain a warning to advise the person charged that failure to plead in the manner and within the time stated in the notice may result in a default decision and order being entered against such person, and the imposition of supplemental penalties as provided in subdivision five-a of section twelve hundred four or subdivision four of section twelve hundred sixty-six of this chapter. A notice of violation shall not be deemed to be a notice of liability issued pursuant to section two thousand nine hundred eighty-five of this chapter.

6. Defaults. Where a respondent has failed to plead to a notice of violation or to a notice of liability issued pursuant to section two thousand nine hundred eighty-five of this chapter within the time allowed by the rules of said bureau or has failed to appear on a designated hearing date or a subsequent date following an adjournment, such failure to plead or appear shall be deemed, for all purposes, to be an admission of liability and shall be grounds for rendering a default decision and order imposing a penalty in such amount as may be prescribed by the authority or the metropolitan transportation authority or a subsidiary thereof.

7. Hearings. a. (1) A person charged with a transit or railroad infraction returnable to the bureau or a person alleged to be liable in accordance with the provisions of section two thousand nine hundred eighty-five of this chapter who contests such allegation shall be advised of the date on or by which such person must appear to answer the charge at a hearing. Notification of such hearing date shall be given either in the notice of violation or in a form, the content of which shall be prescribed by the executive director or in a manner prescribed in section two thousand nine hundred eighty-five of this chapter. Any

such notification shall contain a warning to advise the person charged that failure to appear on or by the date designated, or any subsequent rescheduled or adjourned date, shall be deemed for all purposes, an admission of liability, and that a default judgment may be rendered and penalties may be imposed. Where notification is given in a manner other than in the notice of violation, the bureau shall deliver such notice to the person charged, either personally or by registered or certified mail.

(2) Whenever a person charged with a transit or railroad infraction or alleged to be liable in accordance with the provisions of section two thousand nine hundred eighty-five of this chapter returnable to the bureau requests an alternate hearing date and is not then in default as defined in subdivision six of this section, the bureau shall advise such person personally, or by registered or certified mail, of the alternate hearing date on or by which such person must appear to answer the charge or allegation at a hearing. The form and content of such notice of hearing shall be prescribed by the executive director, and shall contain a warning to advise the person charged or alleged to be liable that failure to appear on or by the alternate designated hearing date, or any subsequent rescheduled or adjourned date, shall be deemed for all purposes an admission of liability, and that a default judgment may be rendered and penalties may be imposed.

(3) Whenever a person charged with a transit or railroad infraction or alleged to be liable in accordance with the provisions of section two thousand nine hundred eighty-five of this chapter returnable to the bureau appears at a hearing and obtains an adjournment of the hearing pursuant to the rules of the bureau, the bureau shall advise such person personally, or by registered or certified mail, of the adjourned date on which such person must appear to answer the charge or allegation at a continued hearing. The form and content of such notice of a continued hearing shall be prescribed by the executive director, and shall contain a warning to advise the person charged or alleged to be liable that failure to appear on the adjourned hearing date shall be deemed for all purposes an admission of liability, and that a default judgment may be rendered and penalties may be imposed.

b. Every hearing for the adjudication of a charge of a transit or

railroad infraction or an allegation of liability under section two thousand nine hundred eighty-five of this chapter hereunder shall be held before a hearing officer in accordance with the rules and regulations promulgated by the bureau.

c. The hearing officer shall not be bound by the rules of evidence in the conduct of the hearing, except rules relating to privileged communications.

d. The hearing officer may, in their discretion, or at the request of the person charged or alleged to be liable on a showing of good cause and need therefor, issue subpoenas to compel the appearance of any person to give testimony, and issue subpoenas duces tecum to compel the production for examination or introduction into evidence of any book, paper or other thing relevant to the charges.

e. In the case of a refusal to obey a subpoena, the bureau may make application to the supreme court pursuant to section twenty-three hundred eight of the civil practice law and rules, for an order requiring such appearance, testimony or production of materials.

f. The bureau shall make and maintain a sound recording or other record of every hearing.

g. After due consideration of the evidence and arguments, the hearing officer shall determine whether the charges or allegations have been established. No charge may be established except upon proof by clear and convincing evidence except allegations of civil liability for violations of triborough bridge and tunnel authority rules and regulations will be established in accordance with the provisions of section two thousand nine hundred eighty-five of this chapter. Where the charges have not been established, an order dismissing the charges or allegations shall be entered. Where a determination is made that a charge or allegation has been established or if an answer admitting the charge or allegation has been received, the hearing officer shall set a penalty in accordance with the penalty schedule established by the authority or the metropolitan transportation authority or its subsidiaries, or for

allegations of civil liability in accordance with the provisions of section two thousand nine hundred eighty-five of this chapter and an appropriate order shall be entered in the records of the bureau. The respondent shall be given notice of such entry in person or by certified mail. This order shall constitute the final determination of the hearing officer, and for purposes of review it shall be deemed to incorporate any intermediate determinations made by said officer in the course of the proceeding. When no appeal is filed this order shall be the final order of the bureau.

8. Administrative and judicial review. a. There shall be appeals boards within the bureau which shall consist of three or more hearing officers, as the executive director shall determine. The executive director shall select a chairman for each appeals board from the members so appointed. No hearing officer may sit on an appeals board considering an appeal from a determination made by said hearing officer.

b. A party aggrieved by a final determination of a hearing officer may obtain a review thereof by serving upon the bureau, within thirty days of the bureau's service of its notice of entry of such order a notice of appeal setting forth the reasons why the determination should be reversed or modified. There shall be no interlocutory appeals.

c. An appeal from a final determination of a hearing officer shall be submitted to the appeals board, which shall have power to review the facts and the law, but shall not consider any evidence which was not presented to the hearing officer, and shall have power to reverse or modify any judgment appealed from for error of fact or law.

d. Appeals shall be made without the appearance of the appellant and appellant's attorney unless the presence of either or both are requested by the appellant, appellant's attorney, appellant's parent or guardian if appellant is a minor, or the appeals board. Within twenty days after a request for an appearance, made by or for the appellant, appellant's attorney or the board, the bureau shall advise the appellant, either personally or by registered or certified mail, of the date on which he or she shall appear. The appellant shall be notified in writing of the

decision of the appeals board.

e. A party may request and obtain a record of the proceedings resulting in a determination for which an appeal is sought, but the party shall pay to the bureau the cost of providing such record. When a record is timely requested for the purpose of preparing an appeal, the bureau shall not thereafter cause the appeal to be heard or submitted less than ten days after the delivery or mailing of the record to appellant or appellant's attorney.

f. The service of a notice of appeal shall not stay the enforcement of an order appealed from unless the appellant shall have posted a bond in, or shall have paid, the amount of penalties imposed in the order appealed from within the time period established by rule of the bureau for payment of penalties following entry of such an order.

g. No determination of a hearing officer which is appealable under the provisions of this section shall be reviewed in any court unless an appeal has been filed and determined in accordance with this subdivision. When an appeal has been filed, the order of the appeals board shall be the final order of the bureau. Judicial review may be sought pursuant to article seventy-eight of the civil practice law and rules.

9. Enforcement of judgments. a. The bureau shall have the power to enforce its final decisions and orders imposing civil penalties for violations of laws, rules and regulations enforced by it as if they were money judgments, without court proceedings, in the manner described herein.

b. Any final order of the bureau imposing a civil penalty, whether the adjudication was had by hearing or upon default or otherwise, shall constitute a judgment rendered by the bureau which may be entered in the civil court of the city of New York or any other place provided for the entry of civil judgments within the state, and, provided that no proceeding for judicial review shall then be pending, may be enforced without court proceedings in the same manner as the enforcement of money

judgments entered in civil actions. A final order against any person or persons shall be a bar to the criminal prosecution of, and in the case of a minor, juvenile offender proceedings against, said person or persons for conduct upon which the order was based.

c. Notwithstanding the foregoing provisions: (1) Before a judgment based upon a default may be so entered the bureau must have attempted to notify the respondent by first class mail, in such form as the bureau may direct: (i) of the default decision and order and the penalty imposed; (ii) that a judgment will be entered in the civil court of the city of New York or any other place provided for the entry of civil judgments within the state; and (iii) the entry of such judgments may be avoided by requesting a stay of default for good cause shown and either requesting a hearing or entering a plea pursuant to the rules of the bureau within thirty days of the mailing of such notice.

(2) Upon receipt by the bureau of a copy of an order to show cause in lieu of a notice of petition, or of a notice of petition, served upon it in a proceeding for judicial review of any final order of the bureau which constitutes a judgment which may be entered in the civil court of the city of New York or any other place provided for the entry of civil judgments within the state, the bureau shall forthwith serve by first-class mail the attorney for the petitioner in such proceeding, or if the petitioner has initiated the proceeding pro se, the petitioner, with a notice stating whether or not a judgment was entered in any such court or other place provided for the entry of civil judgments within the state prior to the pendency of such proceeding for judicial review. If a judgment was so entered, such notice from the bureau also shall contain: (i) the name and address of the court or other place in which the judgment was entered, and (ii) identification of the judgment book, index number, docket number, date of entry, other information or combination of the foregoing, sufficient for the petitioner's attorney in such proceeding, or for the petitioner pro se, to locate such entry of judgment according to the indexing system utilized by the court or other place in which the judgment was entered. Proof of service of such notice from the bureau shall be filed by the bureau with the court in which the proceeding for judicial review is pending at the same time as the filing with the court of the bureau's first legal papers in such

proceeding. The court in which the proceeding for judicial review is pending shall not accept for filing the bureau's first legal papers in such proceeding unless such legal papers are accompanied by such proof of service.

10. Funds. All penalties collected pursuant to the provisions of this section shall be paid to the authority to the credit of a transit crime fund which the authority shall establish. Any sums in this fund shall be used to pay for programs selected by the board of the metropolitan transportation authority, in its discretion, to reduce the incidence of crimes and infractions on transit and railroad facilities, or to improve the enforcement of laws against such crimes and infractions. Such funds shall be in addition to and not in substitution for any funds provided by the state or any political subdivision within the metropolitan commuter transportation district as established by section twelve hundred sixty-two of this article for such purposes.

11. Civil penalties relating to payment of transit fare violations. Civil penalties imposed by the bureau in connection with a violation by a respondent of the rules of the authority or the MTA bus company relating to the payment of fares shall adhere to the following conditions:

a. A violation that is the first such violation by a respondent committed in any four year period shall, absent exceptional circumstances including a concurrent violation or violations by such individual of the penal law or the rules of conduct of the New York city transit authority or the MTA bus company which causes or may tend to cause harm to oneself or to any other person, or to the safe operation of the transit system, be punishable only by an official written warning issued according to and governed by the rules of the authority in all respects; provided that such warning shall not be used for any purpose other than as a predicate to the imposition by the transit adjudication bureau of a civil penalty on such respondent pursuant to this subdivision in the event of a subsequent violation, and provided further that such information shall not be open to the public, nor subject to civil or criminal process or discovery, nor used by any court or

administrative or adjudicatory body in any action or proceeding therein except that which is necessary for the adjudication of the notice of violation pursuant to this subdivision or for inspection and copying and use by the respondent.

b. A penalty for a violation that is the second such violation by a respondent committed in any four year period shall not exceed one hundred dollars (exclusive of supplemental penalties, interest or costs assessed thereon). Upon payment by such respondent of the penalty in full by the date due for such payment, absent exceptional circumstances as set forth in paragraph a of this subdivision, the bureau shall issue a farecard to the respondent for use on transit facilities in an amount not to exceed one-half of the penalty amount.

c. A penalty for a violation that is the third or subsequent such violation by a respondent committed in any four year period shall not exceed one hundred fifty dollars (exclusive of supplemental penalties, interest or costs assessed thereon).

d. In the case of a violation by a respondent who at the time of such violation is enrolled in the fair fares program administered by the city of New York and provides to the bureau proof of such enrollment, the penalty amount for such violation shall not exceed fifty percent of the penalty amount applicable to such violation pursuant to the schedule of such penalties as may from time to time be established by rules of the authority in accordance with paragraphs a through c of this subdivision (exclusive of supplemental penalties, interest or costs assessed thereon).

e. Notwithstanding paragraphs a through d of this subdivision, the bureau shall forgive penalties or any portion of penalties imposed on a respondent for a violation of the rules of the authority or of the MTA bus company relating to the payment of fares on the condition that the respondent enrolls in the fair fares program administered by the city of New York and provides to the bureau proof of such enrollment.

12. Civil penalties relating to payment of railroad fare violations.

Civil penalties imposed by the bureau in connection with a violation by a respondent of the rules of the authority or the metropolitan transportation authority or any of its subsidiaries relating to the payment of fares to the Metro-North railroad and Long Island rail road shall adhere to the following conditions:

a. In the case of a violation by a respondent who at the time of such violation is enrolled in the fair fares program administered by the city of New York and provides to the bureau proof of such enrollment, the penalty amount for such violation shall not exceed fifty percent of the penalty amount applicable to such violation pursuant to the schedule of such penalties as may from time to time be established by rules of the authority or metropolitan transportation authority or any of its subsidiaries.

b. Notwithstanding the rules of the authority or the metropolitan transportation authority or any of its subsidiaries, the bureau shall forgive penalties or any portion of penalties imposed on a respondent for a violation of the rules of the authority or of the metropolitan transportation authority or any of its subsidiaries relating to the payment of fares to the Metro-North railroad or Long Island rail road on the condition that the respondent enrolls in the fair fares program administered by the city of New York and provides to the bureau proof of such enrollment.

13. Reporting. Within two years of the effective date of this subdivision, the metropolitan transportation authority shall begin publishing through the open data website established under section twelve hundred seventy-nine-i of this article, data regarding fare evasion infractions adjudicated by the bureau, including without limitation the number of transit and railroad infractions issued by location including, to the extent ascertainable, the subway stop, bus route and/or stop if applicable, the number and percentage of transit or railroad infractions for which a written warning was issued broken down by location including, to the extent ascertainable, the subway stop, bus route and/or stop if applicable, the date and time of day of each infraction, the number and percentage of transit and railroad

infractions issued wherein the infraction was a second or subsequent infraction alleged against the respondent, and such other information as the authority or bureau deem appropriate. No identifiable information about individual violations shall be published in such reporting.