

**CITY OF NEW YORK
DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT**

NOTICE OF ADOPTION

NOTICE IS HEREBY GIVEN that pursuant to the authority vested in the City of New York Department of Housing Preservation and Development ("HPD") by Chapter 61 of the New York City Charter and by New York City Administrative Code §26-301 and in accordance with section 1043(b) of the Charter, HPD intends to adopt new rules pertaining to relocation services. New material in the following rule is underlined. The proposed rules were published in the City Record on November 28, 2014. A public hearing was held on January 16, 2015.

STATEMENT OF BASIS AND PURPOSE OF THE ADOPTED RULE

The following rules repeal former §18-01 and provide for a new §18-01 regarding the Department of Housing Preservation and Development (HPD) providing relocation services. Tenants who live in dwelling units that are the subject of a vacate order by a City agency may be eligible to receive relocation services, such as temporary shelter, moving expenses and storage services.

The proposed rules:

- Update and clarify eligibility for such services;
- Set forth the requirements for relocated persons to continue to be eligible for them; and
- Outline the circumstances under which such services may be terminated.

Section one. Section 18-01 of Chapter 18 of Title 28 of the Rules of the City of New York concerning relocation services and payments is REPEALED, and a new §18-01 is added to read as follows:

§ 18-01 Services to Individuals Temporarily Displaced by Vacate Orders

(a) Definitions. The following terms used in this section have the meanings stated below.

"Administrative Code" means the New York City Administrative Code.

"Case Manager" means an employee or agent of HPD assigned to coordinate and direct the provision of Relocation Services to a particular Relocatee.

"DHCR" means the State of New York Division of Housing and Community Renewal.

"Family" means those individuals who permanently resided in the Former Apartment with a Relocatee at the time the Vacate Order was issued.

"Former Apartment" means the dwelling unit in which the Relocatee and his or her Family formerly resided that is the subject of a Vacate Order.

"Housing Maintenance Code" means Chapter 2 of Title 27 of the Administrative Code.

"HPD" means the City of New York Department of Housing Preservation and Development.

"NYCHA" means the New York City Housing Authority.

"Prepared for Occupancy" means, with respect to any dwelling unit, one that is free of all immediately hazardous violations of record pursuant to the Housing Maintenance Code, supplied with all appropriate fixtures and appliances, reasonably cleaned, and available for occupancy.

"Relocatee" means an individual, or a head of household and his or her Family, whose Former Apartment is the subject of a Vacate Order and who is eligible for Relocation Services under any provision of these Rules or of law.

"Relocation Services" means all relocation services offered or provided to a Relocatee by HPD, including Shelter Services.

"Rule" or "Rules" means section 18-01 of Chapter 18 of Title 28 of the Rules of the City of New York.

"Shelter Services" means temporary shelter relocation services offered or provided to a Relocatee by HPD.

"Site Occupancy Record" means a written file concerning a Relocatee, maintained by a Case Manager, containing all documents and information concerning the Relocatee.

"Standard Apartment" means a dwelling unit approved by HPD that:

(i) Has adequate floor area for the Relocatee and his or her Family pursuant to the Housing Maintenance Code;

(ii) Has no immediately hazardous violations of record in the dwelling unit;

(iii) Has no violations of record in the dwelling unit for vermin, mice, or other pest infestations, unless a letter from a licensed exterminator certifies that the building is under contract to be serviced monthly;

(iv) Does not have any rooms or facilities which can be reached only through a public area, unless the dwelling unit is approved for single room occupancy use;

(v) Has heat and hot water;

(vi) Contains a private kitchen or kitchenette for the exclusive use of the Relocatee and his or her family, unless the dwelling unit is approved for single room occupancy use;

(vii) Contains private and fully enclosed toilet and bathing facilities for the exclusive use of the Relocatee and his or her Family, unless the dwelling unit is approved for single room occupancy use and;

(viii) Has a window or adequate light and ventilation in each room pursuant to the Housing Maintenance Code.

"Uninhabitable" means, with respect to any dwelling unit, one that is unfit for human habitation, due to substantial structural or other damage that has not been remedied.

"Vacate Order" means one of the following orders of a local governmental agency requiring occupants of a building or dwelling unit to discontinue occupancy:

(i) A Vacate Order issued by the Department of Health and Mental Hygiene pursuant to Administrative Code §17-159 or other provision of law;

(ii) A Vacate Order issued by the Department of Buildings pursuant to Administrative Code §28-207.4 et seq. or other provision of law;

(iii) A Vacate Order or other order issued by the Fire Department pursuant to Administrative Code §15-227 or other provision of law; and

(iv) A Vacate Order or other order issued by HPD pursuant to Housing Maintenance Code §27-2139 or other provision of law.

"Vacate Date" means the date of issuance of a Vacate Order. If more than one Vacate Order affects a building or dwelling unit, "Vacate Date" means the date of issuance of the first Vacate Order affecting such building or dwelling unit.

(b) Relocation Services.

(1) Upon receiving notice of a Vacate Order and identifying a Relocatee, HPD will offer Relocation Services to such Relocatee.

(i) A Relocatee will accept or decline an offer of Relocation Services, in whole or in part, within ninety days after the Vacate Date.

(ii) If a Relocatee does not accept an offer of Relocation Services within ninety days after the Vacate Date, such offer (or the part not accepted) will be deemed to have been declined and will be permanently withdrawn.

(2) If a Relocatee accepts an offer of Shelter Services, HPD may order a Relocatee to move from one temporary shelter to another if, in the judgment of HPD, this facilitates the work of HPD or reduces the costs of temporary shelter.

(3) A Relocatee who declines an offer of Shelter Services may be eligible for other Relocation Services as provided in these Rules. However, a Relocatee who has declined an offer of Shelter Services will not be eligible for any further Shelter Services, despite eligibility for other Relocation Services.

(4) HPD will provide a Relocatee with a copy of these Rules in English and Spanish and such other language as it deems necessary. HPD will notify such Relocatee of the name, office address and telephone number of the Case Manager assigned to the Relocatee. A copy of

these Rules in English and Spanish and such other language as HPD deems necessary will also be made available in the offices of Case Managers.

(5) HPD will assist a Relocatee in completing and submitting an application for housing or for a housing subsidy to NYCHA on behalf of the Relocatee. A Relocatee who fails or refuses to complete such application will be ineligible for any further Relocation Services.

(6) HPD will pay the cost of Shelter Services in such amount as HPD deems adequate for Relocatees residing in temporary shelters.

(7) HPD will refer a Relocatee to one Standard Apartment. A Relocatee may request that such standard apartment be located in a particular borough, if available, provided, however, that a Relocatee may not refuse a standard apartment on the basis that it is not located in the preferred borough.

(8) HPD may withdraw its referral of a Standard Apartment and the Relocatee may withdraw his or her acceptance if the Standard Apartment is not Prepared for Occupancy within 30 days after the date that the Relocatee informed HPD of his or her acceptance.

(9) If HPD notifies the Relocatee that the Former Apartment has been repaired, the Relocatee's unjustified failure or refusal to return to the Former Apartment constitutes grounds for termination of Relocation Services.

(c) Relocation Payments. A Relocatee may be eligible for the following relocation payments:

(1) Moving Expenses. HPD will reimburse a Relocatee whose possessions are moved from the Former Apartment to a storage facility, a Standard Apartment, or lawful dwelling unit for his or her moving expenses in an amount determined by HPD. HPD will not reimburse a Relocatee if he or she is entitled to payment of moving expenses from another governmental agency or other source.

(2) Storage Expenses. HPD will reimburse a Relocatee whose possessions are moved from the Former Apartment to a storage facility for his or her storage expenses in an amount determined by HPD. HPD will not reimburse a Relocatee if he or she is entitled to payment of storage expenses from another governmental agency or other source. If Relocatee's Relocation Services have been terminated or have expired, HPD will not reimburse storage expenses beginning 60 days after HPD has provided a termination or expiration notice to the Relocatee.

(3) Relocation Allowance Payment for Personal Property. HPD will provide a Relocatee with a relocation allowance payment for personal property as provided in Table A of this subdivision, or in such other amount as may be determined by HPD, if the Relocatee satisfies all of the following criteria:

(i) An entity designated by HPD or the Fire Department certifies that the Relocatee has lost all or most of his or her personal property as a result of a fire or other disaster that resulted in the Vacate Order;

(ii) The Relocatee is not under investigation or the subject of pending charges, and has not been convicted of or pled guilty to any charges, in relation to a fire of suspicious origin or any other unlawful act that caused or contributed to the Vacate Order;

(iii) The Relocatee is moving into a Standard Apartment or a lawful dwelling unit; and

(iv) The Relocatee's Relocation Services have not been terminated pursuant to these Rules.

TABLE A--RELOCATION ALLOWANCE PAYMENT FOR PERSONAL PROPERTY

<u>Number of bedrooms</u>	<u>Allowance Payment</u>
<u>1</u>	<u>\$150.00</u>
<u>2</u>	<u>200.00</u>
<u>3</u>	<u>250.00</u>
<u>4</u>	<u>300.00</u>
<u>5</u>	<u>350.00</u>
<u>6 or more</u>	<u>400.00</u>
<u>Single room occupancy unit</u>	<u>100.00</u>

(d) Duties of a Relocatee. A Relocatee will be required to comply with the following:

(1) The Relocatee will actively seek out a lawful dwelling unit and report his or her progress to his or her Case Manager weekly or at such intervals as HPD requires. A Relocatee will keep HPD informed of his or her current address, telephone number and other contact information.

(2) Prior to moving from a temporary shelter to a lawful dwelling unit found by his or her own efforts, or to signing a lease for such lawful dwelling unit, the Relocatee will notify his or her Case Manager. This notice will include the address of the Relocatee's Former Apartment, the address of the lawful dwelling unit, and the names of the Relocatee and his or her Family.

(3) A Relocatee who believes that a dwelling unit referred to him or her by HPD is not a Standard Apartment will deliver a notice to his or her Case Manager specifically stating in writing the facts upon which such conclusion is based within one week after the referral of such dwelling unit.

(4) After having accepted a Standard Apartment referred by HPD and having been notified that it is Prepared for Occupancy, the Relocatee will deliver a notice to his or her Case Manager, within three business days after such notification, stating any facts which in his or her opinion would constitute grounds for a determination that the accommodations have not been Prepared for Occupancy.

(5) The Relocatee will complete an application with NYCHA for housing or a housing subsidy and provide any information requested by HPD or by NYCHA relating to relocation efforts or the Relocatee's eligibility for Relocation Services.

(6) The Relocatee will advise HPD whenever he or she finds a lawful dwelling unit through his or her own efforts and keep HPD advised regarding the date of expected occupancy.

(7) The Relocatee will respond to and comply with all notices of appointments with HPD and with prospective landlords or agents, including, but not limited to, appointments to view potential Standard Apartments.

(8) If the Former Apartment is subject to rent control or rent stabilization, the Relocatee will apply to DHCR to establish reduced rent for the Former Apartment and file the Vacate Order with DHCR. If DHCR establishes the reduced rent for the Former Apartment at \$1.00 per month or another nominal amount, the Relocatee will pay such rent, without interruption, to establish and maintain such Relocatee's right to reoccupy the Former Apartment when repairs have been completed.

(9) If the Relocatee enters into an agreement with the owner of the Former Apartment terminating or diminishing his or her legal rights to occupancy of the Former Apartment, such action will result in termination of Relocation Services.

(e) Termination of Relocation Services: Non-occupancy in Temporary Shelter. This subdivision applies to a Relocatee who has accepted an offer of Shelter Services by HPD.

(1) Before a Relocatee voluntarily moves out of a temporary shelter provided by HPD, he or she will deliver a written notice, which includes the moving date, to his or her Case Manager. Except as otherwise provided in this subdivision, upon such notification, HPD will terminate Relocation Services on the moving date.

(2) If a Relocatee is or will be absent from any temporary shelter provided by HPD for a period of four or more consecutive days but intends to return, he or she will notify HPD in writing in advance as to the cause of such absence, the date upon which he or she can return, and include any supporting documentation, which is subject to approval by HPD.

(3) Except where a Relocatee has notified HPD in compliance with paragraph (2) of this subdivision and HPD has approved the absence from the temporary shelter, HPD may terminate Relocation Services as provided in these Rules upon HPD's determination that a Relocatee is not residing at his or her temporary shelter.

(f) Termination of Relocation Services: Refusal of Referral

(1) After notice and hearing as provided in subdivisions (h) through (l) of these Rules, Relocation Services will be terminated upon a Relocatee's unjustified refusal of one Standard Apartment that is Prepared for Occupancy and referred to him or her by HPD.

(g) Termination of Relocation Services: Other Grounds. Relocation Services may be terminated after notice and hearing pursuant to subdivisions (h) through (l) of these Rules, even if HPD has made no referral to a Standard Apartment, upon occurrence of any one of the following:

(1) The Relocatee unjustifiably fails or refuses to move into the Former Apartment after having been notified by HPD or the owner that such dwelling unit has been repaired and is no longer Uninhabitable;

(2) The Relocatee fails or refuses to fill out an application with NYCHA for housing or a housing subsidy or fails or refuses to provide information required by HPD or NYCHA relating to relocation efforts or the Relocatee's eligibility for Relocation Services;

(3) The Relocatee fails or refuses to comply with the obligation to actively seek out a lawful dwelling unit and to report his or her progress to the Case Manager on a weekly basis or at such intervals as HPD requires, or fails to keep HPD informed of his or her current address, telephone number and other contact information, as required under these Rules;

(4) The Relocatee or any member of his or her Family residing in a temporary shelter provided by HPD engages in conduct which threatens the health, safety or property of a Family member, other residents, guests or visitors in the shelter; City personnel, agents or employees; the owner of the shelter, his or her agents or employees; or any other person;

(5) The Relocatee makes material misstatements or conceals material facts from HPD, NYCHA, or any other entity concerning his or her initial or continued eligibility for Relocation Services;

(6) The Relocatee fails to respond to or comply with a notice for an appointment with employees of HPD or with prospective landlords or agents, including, but not limited to, an appointment to view a potential Standard Apartment;

(7) The Relocatee is ineligible for Relocation Services:

(i) because he or she did not in fact dwell in the Former Apartment;

(ii) because the Relocatee has failed to file the application to DHCR required by paragraph 8 of subdivision (d) of these Rules or has failed to remain current on his or her obligation to pay a reduced rent of \$1.00 per month or another nominal amount for the Former Apartment as established by DHCR;

(iii) because the Relocatee has signed or otherwise entered into an agreement with the owner of the Former Apartment terminating or diminishing his or her legal rights to occupancy of the Former Apartment;

(iv) because the Former Apartment is no longer Uninhabitable and the Relocatee has unjustifiably failed or refused to return to the Former Apartment; or

(v) because he or she is otherwise ineligible for Relocation Services; or

(8) The Relocatee behaves in a manner which substantially interferes with the orderly operation of the temporary shelter provided by HPD, including, but not limited to, repeated violations of any rules or regulations of such shelter.

(h) Hearing procedures.

(1) Prior to the termination of Relocation Services, HPD will give the Relocatee notice of the intended termination and an opportunity to be heard, according to the procedures stated in these Rules.

(2) HPD will deliver a notice of intention to terminate Relocation Services to a Relocatee in the manner provided in subdivision (m) of these Rules no fewer than seven days prior to the scheduled date of the hearing. The notice will be in Spanish and English and such other language as the Department deems necessary. The notice will state:

(i) the date upon which HPD intends to terminate Relocation Services;

(ii) the factual and legal basis upon which HPD intends to terminate such Relocation Services;

(iii) the time, date and place of the hearing;

(iv) that for good cause, the Relocatee may request a change in the hearing date indicated in HPD's notice of intended termination;

(v) that appearance at the hearing will stay any intended termination of Relocation Services until at least seven days after a hearing officer's decision; and

(vi) that, if the Relocatee requests a hearing, he or she has the right to be represented by an attorney or other representative, to have a translator present, to testify, to produce witnesses to testify, to offer documentary evidence, to cross-examine opposing witnesses, and to examine the Site Occupancy Record, upon request, at a reasonable time prior to the hearing.

(3) If the Relocatee is unable to attend the hearing at the time, date and place indicated in the notice of intended termination, he or she will deliver notice of such unavailability to HPD in writing at least three days before the proposed hearing date.

(i) Hearing Procedures; Conduct of Hearing.

(1) The termination hearing will be conducted by an impartial hearing officer designated by HPD. The hearing officer will have the power to administer oaths and have no prior personal knowledge of the facts concerning the proposed termination of Relocation Services.

(2) The hearing will be informal. All relevant and material evidence will be admissible and the legal rules of evidence will not apply. The Site Occupancy Record will be part of the evidence at any hearing whether or not the Case Manager is or can be present. The hearing will be confined to the factual and legal issues raised in the notice of intended termination of Relocation Services.

(3) The Relocatee will have a right to be represented by counsel or other representative, to testify, to produce witnesses to testify, to offer documentary evidence, to cross-examine opposing witnesses and to examine the Site Occupancy Record.

(4) For good cause, the hearing may be adjourned by the hearing officer on his or her own motion or at the request of the Relocatee or HPD.

(5) HPD will provide translation services for Relocatees who request such services prior to the date of the termination hearing.

(j) Hearing Procedures: Decision.

(1) The hearing officer will render a decision which includes:

(i) written findings of fact;

(ii) the legal basis for any decision to terminate or to deny termination of Relocation Services; and

(iii) if the termination is granted, the date of termination of Relocation Services.

(2) A copy of the decision will be provided to the Relocatee. If the termination is granted, a copy of the decision will be provided no fewer than seven days prior to the date of termination set by the hearing officer. In the case of termination for threatening conduct by the Relocatee or a member his or her Family as described in paragraph 4 of subdivision (g) of these Rules, such decision will be provided at least 24 hours before the termination date. Notwithstanding any other provision of these Rules, the hearing officer will not set a date for termination of Relocation Services that is later than 14 days after the date of his or her decision.

(3) Delivery of the copy of a decision rendered pursuant to this section will be made in the manner for giving notice provided in subdivision (m) of these Rules.

(4) A decision rendered pursuant to this subdivision will be final absent a timely appeal as described in subdivision (l) of these Rules.

(k) Hearing Procedures: Default.

(1) Failure to appear at the termination hearing on the date described in HPD's notice of intended termination of Relocation Services, or on any adjourned date, will result in termination of Relocation Services, unless the Relocatee makes a written application to the hearing officer. Such written application will be filed no later than four days before the scheduled date of termination of Relocation Services. In the application, the Relocatee will provide facts establishing that either:

(i) the Relocatee was not properly served with a notice of intended termination of Relocation Services and opportunity for a hearing; or

(ii) the default was excusable and that Relocatee has a meritorious defense to the intended termination.

(2) The termination date may be delayed if such written application is made by the Relocatee prior to the scheduled date of termination of Relocation Services.

(3) The written application submitted to the hearing officer by the Relocatee pursuant to this section may be granted if the Relocatee provides facts establishing either of the grounds described in paragraph (1) of this subdivision. In such circumstance, in accordance with the provisions of subdivision (h) of these Rules, HPD will deliver to the Relocatee a new notice of intention to terminate Relocation Services and opportunity for a hearing. However, the hearing date will be scheduled on the third business day after delivery of such notice.

(l) Appeal.

(1) An appeal from a decision of a hearing officer may be made in writing to the person designated by the Commissioner of HPD, if it is received within five days after the date of delivery of the hearing officer's decision. The record before the Commissioner's designee will consist of the record of the proceedings, the Site Occupancy Record, the hearing officer's decision and any written arguments which the appellant may wish to submit.

(2) Termination of Relocation Services will be stayed pending a determination of the appeal. A copy of the decision on appeal will be delivered in the manner for giving notice provided in subdivision (m) of these Rules. Termination will not be ordered during the seven-day period immediately following the delivery of the decision on appeal. However, in the case of termination for threatening conduct of the Relocatee or his or her Family as described in paragraph 4 of subdivision (g) of these Rules, termination may occur within 24 hours after delivery of notice of an adverse decision on appeal.

(m) Notice.

(i) Any written notice by HPD required under these Rules will be:

(1) personally served on Relocatee;

(2) mailed to the Relocatee at his or her place of residence in a temporary shelter or other residence;

(3) left with a person of suitable age and discretion at Relocatee's place of residence in a temporary shelter or other residence; or

(4) placed under the door of Relocatee's place of residence in a temporary shelter and a copy left with the desk clerk or other responsible representative of the proprietor or lessee of the temporary shelter.

(ii) Unless these Rules specifically require otherwise, where a Relocatee is required to provide any notice under these rules, he or she will provide a copy to his or her Case Manager in writing.