

Subject: Assessing Discord, Overcrowding, and Primary Tenant Relationship when Determining Shelter Eligibility	Applicable To: Staff working at PATH and AFIC	Effective Date: May 15, 2023 (Replaces DHS-PB-2022-004)
Administered By: PATH and AFIC		Approved By: Joslyn Carter, Administrator Department of Social Services/ Department of Homeless Services

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■ INTRODUCTION

In accordance with State Office of Temporary and Disability Assistance administrative directives (State ADM), New York City's shelter system for families with children and adult families is designed to provide temporary, emergency shelter to families with no other housing options available to them. Families seeking emergency shelter must provide information regarding their family and housing history that is investigated to determine whether the family is eligible for emergency shelter. Families are ineligible for shelter when the Department of Homeless Services (DHS) determines they have other housing available.

■ PURPOSE

This procedure documents action required of staff at Prevention Assistance and Temporary Housing (PATH) and Adult Family Intake (AFIC) when determining whether an address is available as a viable housing option to a family, including:

- Assessing and mediating household discord between the applicant family and the primary tenant of an address, and continuing conditional placement beyond 10 days until mediation is completed
- Investigating and confirming conditions of overcrowding at an address, including ensuring that rooms available for sleeping are consistent with the number of family members
- Identifying and considering the relationship between the applicant family and the primary tenant of an address
- Determining length of stay at a prior address
- Determine whether there is a second instance of non-consent from the primary tenant of an address.
- Additional considerations related to addresses outside of New York City
- Ensuring that families with no available housing options are granted access to shelter

■ PROCEDURE

Determining shelter eligibility for families requires inquiry into and review of their housing history. This review is from both a health and safety perspective as well as a social services perspective. Many factors are considered when establishing eligibility for the family and adult family shelter system. The steps outlined here do not constitute the totality of considerations that must be made when determining eligibility but do represent an important subset of factors requiring close attention through a guided approach.

DHS investigates addresses found in the applicant family's housing history and other addresses associated with the applicant family to determine whether any such addresses are available housing options. Where a primary tenant says they decline to give permission for an applicant family to return to an address, DHS must consider a totality of factors prior to determining whether the address is, nonetheless, an available housing option and the applicant will be able to stay there. These factors may include the relationship of the primary tenant to the applicant family, the length of stay of the applicant family at the residence, the location of the residence, the reason(s) the primary tenant says they are declining permission to return to the residence, the reason(s) the applicant family claims they cannot return there, and any potential hardships in permitting the applicant to return to the residence. In making such determinations, the statements by applicants and third parties must be supported by clear, convincing, and credible evidence and verified using the totality of factors test.

DHS will make every effort to facilitate mediation between the applicant family and the primary tenant, and otherwise incentivize the applicant family's return. DHS may find a family ineligible after mediation and consideration of a totality of factors if DHS finds that the primary tenant's justification for refusal is not reasonable.

However, if the family returns to PATH and reapplies for shelter within 30 days because the primary tenant of an address deemed available will not allow the family to reside there, this will constitute an immediate need and the family must be given a conditional placement. DHS must engage the applicant family and primary tenant in mediation again. If the primary tenant does not give affirmative consent for the applicant family to reside at the address and/or does not participate in the mediation process, DHS must preclude the address and not consider it an available housing option.

Note: When an applicant family lists a primary tenant as an emergency contact, the address of the emergency contact will not be investigated unless it is also part of the applicant family's housing history or is otherwise associated with the applicant family.

Household Discord and Mediation

A. Families with Children Presenting at PATH

For families with children applying for shelter at PATH who self-report discord as their primary reason for homelessness, do not immediately accept diversion services, and do not report domestic violence as a reason for homelessness, the assigned PATH social worker must:

- Seek to develop a detailed picture of prior living arrangements from a social services perspective, including an assessment of:
 - social supports
 - housekeeping, parenting, and budgeting issues
 - strengths and obstacles related to education and employment
 - legal issues
 - child welfare issues
 - medical, mental health, and substance use issues
 - trauma history
 - homelessness history, and
 - details related to the nature and duration of discord, if appropriate
- Make at least two attempts to contact the primary tenant(s) at the prior living arrangement(s) to inquire about the above from their perspective.
- Conference with both parties to initiate mediation, including acknowledgment of individual needs, recognition of shared perspectives, and clarification of discrepancies.
- Schedule follow-up conferences as necessary during the course of the eligibility process.
- Facilitate rental assistance and Homebase referrals through HRA if mediation is successful and return to the community is feasible.

- Document in CARES a summary of mediation efforts, including a summary assessment from a social services perspective.

If mediation is not immediately successful and a preliminary ineligible determination is reached based on recommended housing with the primary tenant of an address where discord was reported, the supervisor responsible for the eligibility determination must consult with the assigned social worker to determine the viability of the housing option from a social services perspective, including the identified barriers to mediation. The housing option must be precluded if the social work assessment and mediation efforts identified any of the following conditions related to the residence:

- Domestic violence, including intimate partner and family violence
- Criminal activity
- Child welfare issues
- Substance misuse
- Asylum-related matters
- Human trafficking concerns
- Other circumstances that would potentially jeopardize the health and/or safety of the applicant family or otherwise substantiate the presence of unresolvable discord
- The refusal of the primary tenant, after DHS's best efforts (including mediation), to give permission for an applicant family to return to the address is supported by clear, convincing, and credible evidence and justified as required under State ADM 16-ADM-11.

Note: Families with identified or reported issues of domestic violence, including intimate partner and family violence, or who otherwise request to speak with a social worker regarding domestic violence will continue to receive referrals to No Violence Again (NoVA) and remain in shelter pending a NoVA assessment.

DHS must continue to provide shelter during the period of mediation and any social work assessment. The family will remain in shelter while this is happening, and, if necessary, the 10-day conditional period must be extended until this effort is completed.

The applicant family may only be found ineligible for shelter because of other housing available at an address where the applicant family claimed discord when the following criteria are met:

- No circumstances at the address that would potentially jeopardize the health and/or safety of the applicant family or otherwise substantiate the presence of unresolvable discord
- Prior stay of the applicant family at the address was within the past two years,
- Prior stay of the applicant family at the address was for two weeks or more,
- Primary tenant of the address is related to the applicant family, and
- The refusal of the primary tenant, after DHS's best efforts (including mediation), to give permission for an applicant family member to return to the address is not supported by clear, convincing, and credible evidence or justified as required by 16-ADM-11.

Note: A managerial review must be completed prior to a denial for other housing available at an out of City address. In addition, if an out of City address appears to be a viable housing option, PATH and AFIC staff must work with the applicant family to gather documentation needed to establish eligibility for Project Reconnect.

B. Adult Families Presenting at AFIC

For adult families applying for shelter at AFIC who self-report discord as their primary reason for homelessness, do not immediately accept diversion services, and do not report domestic violence as a reason for homelessness, supervisory staff at AFIC or at the assessment placement must:

- Seek to develop a detailed picture of prior living arrangements from a social services perspective, including an assessment of:
 - social supports
 - housekeeping and budgeting issues
 - strengths and obstacles related to education and employment
 - legal issues
 - homelessness history, and
 - details related to the nature and duration of discord, if appropriate
- Make at least two attempts to contact the primary tenant(s) at the prior living arrangement(s) to inquire about the above from their perspective
- Facilitate rental assistance referrals through HRA if diversion is successful and return to the community is feasible
- Document in CARES a summary assessment from a social services perspective.

If return to the community is not immediately successful and a preliminary ineligible determination is reached based on recommended housing with the primary tenant of an address where discord was reported, the AFIC staff completing the eligibility determination must consult with the director at AFIC who will review the social services assessment to determine the viability of the housing option from a social services perspective. The housing option must be precluded if the social services assessment identified any of the following social service needs related to the residence:

- Domestic violence, including intimate partner and family violence
- Criminal activity
- Substance misuse
- Asylum-related matters
- Human trafficking concerns
- Other circumstances that would potentially jeopardize the health and/or safety of the applicant family or otherwise substantiate the presence of unresolvable discord
- The refusal of the primary tenant, after DHS's best efforts, to give permission for an applicant family to return to the address is supported by clear, convincing, and credible evidence and justified under 16-ADM-11.

Note: Families with identified or reported issues of domestic violence, including intimate partner and family violence, or who otherwise request to speak with a social worker regarding domestic violence will continue to receive referrals to No Violence Again (NoVA) and remain in shelter pending a NoVA assessment.

DHS must continue to provide shelter during the period of social service assessment. The family will remain in shelter while this is happening, and, if necessary, the 10-day conditional period must be extended until this effort is completed.

The applicant family may only be found ineligible for shelter because of other housing available at an address where the applicant family claimed discord when the following criteria are met:

- No circumstances at the address that would potentially jeopardize the health and/or safety of the applicant family or otherwise substantiate the presence of unresolvable discord,
- Prior stay of the applicant family at the address was within the past one year,
- Prior stay of the applicant family at the address was for two weeks or more,
- Primary tenant of the address is related to the applicant family, and
- The refusal of the primary tenant, after DHS's best efforts, to give permission for an applicant family member to return to the address is not supported by clear, convincing, and credible evidence or justified as required under 16-ADM-11.

Note: A managerial review must be completed prior to a denial for other housing available at an out of City address. In addition, if an out of City address appears to be a viable housing option, PATH and AFIC staff must work with the applicant family to gather documentation needed to establish eligibility for Project Reconnect.

Reapplications, Conditional Placements, and Mediation

For families returning to PATH or AFIC within 30 days of the last ineligible determination based on other housing available, staff must do the following:

- A. If a family comes back to PATH or AFIC within 30 days and states that they have no place to sleep, staff **must** engage the family and determine why the family is asserting that they have no place to sleep. To appropriately engage the family, staff must ask:
- Did you attempt to contact the primary tenant of the housing option deemed available?

If the family did not attempt to contact the primary tenant of the housing option deemed available, staff **must** let the family know that they can call the primary tenant from the intake office. If the family calls the primary tenant and the primary tenant refuses to engage and/or affirmatively states that the family cannot return, this constitutes an immediate need. DHS must give the family a conditional placement and engage in the mediation process with the primary tenant of the address in question again (see sections A and B of this procedure for Families with Children and Adult Families, respectively).

- B. If a family comes back to PATH or AFIC within 30 days and states that the primary tenant denied them entry to the residence and/or refused to engage with them, this constitutes an immediate need. DHS must give the family a conditional placement and engage in the mediation process with the primary tenant of the address in question again (see sections A and B of this procedure for Families with Children and Adult Families, respectively).

While the applicant family is in conditional placement, the second attempt at mediation will be deemed unsuccessful when the primary tenant either:

- refuses to engage in the mediation process; or
- affirmatively states that the applicant family does not have consent to return.

This will be considered reasonable and justified, as defined in 16-ADM-11, and that address will be precluded and not counted as an available housing option.

Overcrowding

To avoid overcrowding, PATH and AFIC staff must review the following chart that sets the maximum number of persons allowable depending on how many rooms at an address are used for sleeping. If an address does not have the minimum number of rooms to accommodate the number of occupants in the chart, it must be precluded as a viable housing option except where the residence is a New York City Housing Authority (NYCHA) unit and NYCHA has indicated its willingness to approve the applicant's stay. If an overcrowding claim involves a primary tenant's refusal to allow an applicant family to reside at their residence, the provisions of this procedure above for evaluating such cases must be followed.

Total Number of Occupants (primary tenant household and applicant family)	Minimum Number of Rooms ¹ (used for sleeping)
Any 3 Person Combination	2
Any 4 Person Combination	3
Any 5 Person Combination	3
Any 6 Person Combination	4
Any 7 Person Combination	4
Any 8 Person Combination	4
Any 9 or 10 Person Combination	5
Any 11 or 12 Person Combination	6
Any 13 or 14 Person Combination	7
Any 15 Person Combination	8

Note: Existing rules regarding egress and additional bedding must still be considered, e.g., an address must be precluded if there is not enough room for additional bedding and existing bedding would require unrelated people to sleep in the same bed.

Effective Immediately

Reference:

[16-ADM-11](#)

¹ Rooms used for sleeping may include rooms other than bedrooms (e.g., a living room) provided that such use does not impair egress or otherwise constitute a hazard.