



RESIDENT POLICIES & PROCEDURES

Occupancy and Succession (Remaining Family Member) Policy Overview

The following is a summary of NYCHA's occupancy and remaining family member policies. Contact Development Management staff for a full explanation of these policies.

I. OCCUPANCY: No one is permitted to reside in a NYCHA apartment during the course of a tenancy unless he/she is:

- An authorized family member, as follows:
 - a) an original family member,
 - b) is added through family growth, or
 - c) receives the development housing manager's written permission to reside in the apartment (the permission can be temporary, usually not more than one year, or permanent) and
- remains continuously in the apartment, meaning on all affidavits of income. If a family member moves out, he/she needs NYCHA's written permission to return to the apartment.

II. SUCCESSION: After a tenancy ends (the tenant(s) / lessee(s)) move out or die), a person can succeed to a NYCHA lease if



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he/she qualifies as a **Remaining Family Member** and is Otherwise Eligible for the NYCHA apartment, as follows:

(A) Remaining Family Member (RFM): A person can be considered an RFM if he/she:

- Was an authorized family member during the course of the tenancy, as follows:
 1. an original family member,
 2. added through family growth, or
 3. received the development housing manager's written permission to permanently reside in the apartment. If that permission was granted on or after November 24, 2002, the RFM claimant must have resided in the apartment, from the date the permanent permission was granted in writing for a period of time not less than **one year** immediately prior to the date the tenant vacates the apartment or dies, and
- remained continuously in the apartment, meaning on all affidavits of income.

(B) Otherwise Eligible: A **Remaining Family Member (RFM)** is otherwise eligible to succeed to a NYCHA apartment if he/she:

1. has the legal capacity to sign a lease,



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2. is not undesirable (must pass a criminal background check), and
3. The **Remaining Family Member (RFM)** or one or more of the RFM's family members must have a verifiable income on which to calculate a rent.

A Remaining Family Member (RFM) family who qualifies to succeed to a NYCHA apartment must also move to an apartment of correct size, if required based on NYCHA's Occupancy Standards.

III. GRIEVANCE REMEDY

- During the course of a tenancy, a tenant may request a grievance hearing to review a development housing manager's decision to deny an occupancy permission request.
- After a tenancy ends, a **Remaining Family Member (RFM)** claimant may request an RFM grievance hearing if he/she is not granted a lease to the apartment. The RFM grievance is a three step process as follows:
 1. An initial grievance hearing with the development housing manager,
 2. An automatic review of the manager's decision by NYCHA's borough management department, and



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3. If during the previous steps the **Remaining Family Member (RFM)** claimant made any showing to support his/her claim to succession but he/she is still denied a lease, then the claimant may appeal to the Impartial Hearing Office for an administrative grievance hearing concerning the claim.

In all steps of the grievance process, the RFM claimant has the burden to prove that he/she is eligible to succeed to the NYCHA lease.

THE FOLLOWING IS A FULLER EXPLANATION OF SOME OF THE TERMS AND CONCEPTS OUTLINED ABOVE

1) **AUTHORIZED FAMILY MEMBERS include:**

- Original Family Members: These are the family members listed on the Housing Application who are authorized to reside in the apartment at initial move-in. These include the Tenant (the lessee, or person signing the NYCHA Residential Lease) and Co-Tenant (if two persons sign the Lease).
- Persons added through family growth (see below).
- Persons who receive the development housing manager's written permission to reside with the tenant(s) in the apartment - either temporary or permanent permission (see below).



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Added residency requirements:

- No one may live in a NYCHA apartment unless he or she has authorization from NYCHA.
- All authorized residents must be listed on the yearly Occupant's Affidavit of Income.
- If an authorized household member leaves the apartment, the Tenant is required to notify NYCHA in writing and submit verification.
- An authorized household member who leaves the apartment may not automatically return, but the Tenant has to request permission from NYCHA and NYCHA must grant permission in writing, before the household member is authorized to return.

2) ENDING A TENANCY: The sole Tenant or both Co-Tenants may end the tenancy and leave the apartment, by signing a Notice of Intent to Vacate, giving NYCHA 30 days notice. This notice does not excuse the Tenant from other NYCHA obligations, such as paying all rent due and leaving the apartment clean and in good condition.

3) FAMILY GROWTH: the following individuals receive authorized permanent residency status, once proof is submitted to the manager to verify their status. A Tenant may be entitled to request a larger apartment, if a person who joins an apartment by



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family growth causes the apartment to be overcrowded, based on NYCHA's occupancy standards. Note that foster children are not included in the category of Family Growth.

- Birth - a person born to the tenant or authorized family member while (s)he resides in the apartment.
- Legal Adoption or Court Ordered Ward - a person legally adopted by or judicially declared to be the ward (under legal custody or guardianship) of the Tenant or authorized family member while (s)he resides in the apartment. If the additional person is sixteen years old or older, he/ she must also pass a criminal background check in order to be eligible.

4) TEMPORARY PERMISSION: A Tenant(s) can request permission for a family member or friend to reside with him/her for a short period of time during the tenancy, usually up to one year. Note that a Tenant may request temporary permission for a foster child to join the household, and that temporary permission will automatically be renewed during the duration of the foster care relationship, unless otherwise terminated.

- For temporary permission, some NYCHA rules concerning occupancy are relaxed. The development housing manager may grant temporary permission even if the apartment is "overcrowded" but not "extremely overcrowded," based on



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NYCHA's occupancy standards. The overcrowding however will not entitle the tenant to transfer to a larger apartment.

- If Temporary Permission is granted:
 - a) the income of the additional person(s) is not calculated for rent purposes, and
 - b) the additional person(s) does not have any succession rights to the apartment.

5) PERMANENT PERMISSION: A Tenant(s) can request permission for certain specified individuals to receive permanent permission to reside with him/her during the tenancy. Note that all permission requests must be in writing and permission is not received unless it is granted in writing by the development housing manager.

- a) The person making the permanent occupancy permission request must be: (1) the Tenant; (2) who is in current occupancy; and (3) who is in good standing.
- b) All requests for permission for permanent occupancy permission made on or after November 24, 2002 may be made only for the following individuals:
 - **Relatives of the Tenant:** husband, wife, son, daughter, stepson, stepdaughter, father, mother, stepfather, stepmother, brother (including half-brother), sister (including half-sister), grandfather, grandmother, grandson,



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granddaughter, son-in-law, daughter-in-law, father-in-law, mother-in-law; or

- Registered domestic partner of the Tenant; or
- Persons seeking to rejoin the family: an original family member or other person who previously received permanent residency authorization by NYCHA, who moved out of the household and now seeks permission to rejoin the household. A person in this category does not automatically obtain permission for permanent occupancy because of his/her former occupancy, notwithstanding NYCHA's actual or constructive notice of his/her return to the apartment.
- Minors: Every minor (a person under age 18) for whom a request for permanent occupancy permission has been submitted must either be the birth/natural child, adoptive child, judicially declared to be the ward (under the legal custody or guardianship) of, or spouse of, either the Tenant or of an authorized permanent family member.
 - a) The proposed additional person(s) must be desirable and pass a criminal background check if age 16 and older.
 - b) The proposed additional person(s) must comply with NYCHA's occupancy standards based on apartment size. NYCHA will not grant permanent permission if the proposed additional person(s) "overcrowds" the apartment.



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- c) The income of the proposed additional person(s) will be added to family income for rent calculation purposes.

6) REMAINING FAMILY MEMBER (SUCCESSION) RIGHTS:

After the Tenancy ends, when the Tenant(s) moves out of NYCHA public housing or dies, authorized household members may apply NYCHA to succeed to a NYCHA tenancy as follows:

a) Persons authorized before November 24, 2002:

- Original family members,
- Persons added through family growth, or
- Persons who received written permission for permanent residency (including prior household members who moved out and later received permanent permission to return), prior to November 24, 2002, and who remain in continuous occupancy (on all affidavits of income) may have rights as remaining family members.

b) Persons authorized on or after November 24, 2002:

- Original family members,
- Persons added through family growth, or
- Persons who received written permission for permanent residency (including prior household members who moved out and later received permanent permission to return) on or



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after November 24, 2002, and who remain in continuous occupancy (on all affidavits of income), **from the date they received written permission for permanent occupancy from the Development Manager for not less than one year immediately prior to the date the Tenant(s) vacates the apartment or dies**, may have rights as remaining family members.

7) REMAINING FAMILY MEMBERS MAY BE OFFERED A NYCHA LEASE: Persons who qualify as Remaining Family Members may be entitled to a NYCHA lease, or permanent occupancy status in a new tenancy, if they are otherwise eligible for public housing in accordance with the admission standards for applicants contained in the Housing Applications Manual. All family members age 16 and older must additionally pass a **Criminal Background Check** before any lease may be granted or permanent occupancy authorized. If a Remaining Family Member is entitled to a NYCHA lease but the current apartment is not the correct size for the family, the family will be required to move to a correct size apartment.

ALL DOCUMENTS SUBMITTED AND REPRESENTATIONS MADE IN CONNECTION WITH THIS POLICY ARE SUBJECT TO NYCHA'S INDEPENDENT VERIFICATION.