



Office of Temporary and Disability Assistance

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Administrative Directive Memorandum

Section 1

Transmittal:	20-ADM-09
To:	Social Services District Commissioners
Issuing Division/Office:	Division of Shelter Oversight and Compliance
Date:	August 12, 2020
Subject:	Adoption of New Shelter Regulations
Suggested Distribution:	Commissioners TA Directors Housing/Homeless Services Directors
Contact Person(s):	Division of Shelter Oversight and Compliance at (518) 486-4040 otda.sm.css.bss@otda.ny.gov
Attachments:	Attachment A – 18 NYCRR Part 491 Attachment B – 18 NYCRR Part 900 Attachment C – Security Plan Assessment Form Attachment D – Safety & Security Plan Attestation Attachment E – Emergency Shelter Operational Plan Filing Instructions Attachment F – Emergency Shelter Operational Plan Adult / Adult Family Shelters Attachment G – Emergency Operational Plan Family Shelters Attachment H – Request for Regulations Waiver Form Attachment I – Fiscal Profile Instructions Attachment J – Line Item Budget Form Attachment K – Part 491 Resident Rights Attachment L – Part 900 Resident Rights Attachment M – Preliminary Health Screening

Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
		18 NYCRR § 352.35 18 NYCRR, Part 491 18 NYCRR, Part 900	Social Services Law (SSL) § 2(21) and (23) SSL § 17(a)-(b) and (i) SSL § 20(2)(b) SSL § 20(3)(d)-(f) SSL § 34(3)(c)-(f) SSL § 34(6) SSL § 460 SSL § 460-c(1)		

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
			SSL § 460-d(1) and (7)(a) SSL § 461		

Section 2

I. Summary

This directive provides guidance on the regulations governing homeless shelters for adults and families that became effective January 1, 2020.

II. Purpose

To provide an overview of some of the changes in the new regulations that became effective January 1, 2020.

III. Background

18 NYCRR Parts 491 and 900 were recently amended and now apply to all shelters for adults or families, regardless of size, when those shelters receive payments from social services districts (districts) from State or State-administered grants or funds for costs related to the provision of temporary housing and services (hereinafter “publicly funded shelters”). The newly adopted regulations require all publicly funded shelters to become certified. These regulations are not applicable to Code Blue shelters, warming stations, or other facilities operated solely for the purpose of providing shelter to homeless individuals during periods of inclement winter weather.

The regulations also were amended to modernize the existing language, set forth new requirements, and eliminate requirements that had become outdated.

IV. Program Implications

Shelter Certification

Any publicly funded shelter that is currently uncertified must become certified by January 1, 2023. To become certified, districts must submit an operational plan for each shelter to the Office of Temporary and Disability Assistance’s (OTDA) Division of Shelter Oversight and Compliance (DSOC) for approval. DSOC staff will work with districts to begin the certification process for those uncertified shelters that meet the regulatory requirements. All shelters that become certified or are re-certified after January 1, 2020 will be issued an operating certificate that remains valid for a maximum period of five years.

The new regulations acknowledge that requirements pertaining to publicly funded shelters cannot be “one size fits all.” Accordingly, districts are given the option to seek waivers for non-statutory requirements of 18 NYCRR, Parts 491 and 900 (see attachment H). A waiver may be available when a shelter is unable to comply fully with the regulations and the shelter operator establishes that the intended outcome of the regulations it seeks to have waived may be achieved by other methods. Further guidance will be forthcoming on the waiver process.

New Shelter Openings

In order for a district to receive reimbursement from the State for a new shelter, operational plans must be submitted to and approved by OTDA prior to the shelter opening. If a shelter is opened

without OTDA approval, reimbursement may not be claimed until an operating certificate is issued. However, costs incurred by a shelter after its proposed operational plan has been submitted may be reimbursed by the State if: (1) the facility is operational on the date the plan is submitted or within 90 days after that date; (2) the facility complies with any requests for additional information requested by OTDA and provides such information on a timely basis; and (3) the operational plan is approved by OTDA within one year or any lesser period of time specified by OTDA.

The application to open a new shelter has been revised to reflect the new regulations (see attachments E, F and G) and is available on OTDA's website at <https://www.otda.ny.gov/programs/shelter>.

Food Services

The regulations relating to food services provide shelter operators with flexibility as to how meals can be made available to shelter residents. Meals can be provided at the shelter facility or outside the facility, directly or through contractual arrangements, or in restaurants through the use of restaurant allowances or voucher arrangements. The regulation requiring that staff or residents involved in meal preparation have a negative TB test to handle food has been eliminated. However, no person may be permitted to work at a shelter if that person is known to be infected with a communicable disease that might endanger the health of residents.

Resident Rights

18 NYCRR §§ 491.12 and 900.12 set forth shelter residents' rights and obligations, which have been updated. Please ensure that all certified shelters have an updated copy of the attached resident rights, which should be posted in a location accessible to facility residents and visitors and provided to each resident or family upon admission (attachments K and L).

Preliminary Health Screening for Families and Medical Referrals for Adults

Families with children must be screened at or before the time of intake but in no case later than 24 hours after admission to the facility to ascertain their general health, and in the case of pregnant people, to verify pregnancy. Medical screenings need not be undertaken by qualified medical personnel. However, members of families with children should be referred for physical examination, laboratory tests, inoculations, or other treatment as appropriate, and should be referred for medical examination by qualified medical personnel if requested. The screening must be conducted using attachment M or a local equivalent form that contains all of the information required on attachment M, but may also contain additional information required for the district's own purposes.

Individual adults do not require health screening but should be referred for appropriate medical or clinical services if the person is determined to need treatment for physical or mental health issues.

In no event shall a person exhibiting symptoms of a generalized systemic communicable disease or a readily communicable local infection be admitted to a shelter unless the person can be properly isolated and quarantined in the facility.

Independent Living Plans

Independent Living Plans (ILPs) for individual adults and adult families are to be prepared by districts or their designees pursuant to 18 NYCRR § 352.35. 18 NYCRR § 900.9 requires that an ILP be developed for each family with children within ten (10) days of admission to a shelter. The ILP requirements for families remain unchanged. For individual adults and adult families, districts or their designees must develop ILPs for eligible persons when the district determines that such a plan will assist the individual or adult family to obtain housing other than temporary housing.

Security Plans

For shelters that are currently certified, annual submission of the security plan or attestation is no longer required. New security plans must be included in facility operational plans when the facilities seek to recertify. However, if there are changes to the security plan (or to other parts of the operational plan) in the interim, the revised operational plan must be submitted to OTDA. (attachment C)

Uncertified shelters must continue to submit attestations or updated security plans annually until they become certified. (attachment D)

Shelters for Adult Families

Shelters for adult families are now subject to the regulations in 18 NYCRR, Part 491, and not those in 18 NYCRR, Part 900. If districts are interested in opening a shelter for adult families, they should contact DSOC for more information. DSOC will continue to work with districts that currently operate shelters for adult families as these shelters become certified. (attachments A and B)

Enforcement Authority

The new regulations provide that OTDA may withhold reimbursement for all expenditures made by a district related to the provision of temporary housing assistance when any shelter located within the district fails to comply with the applicable statutory or regulatory requirements or fails to operate in accordance with an operational plan approved by OTDA. The new regulations also permit OTDA to impose civil penalties on shelter operators where shelter residents were endangered or harmed by a violation.

Infant Safety

18 NYCRR § 900.18 requires operators of shelters for families with children to furnish each infant resident with a suitable crib compliant with federal and State safety standards, provide a Safe Sleep Brochure with crib safety information published by the New York State Department of Health (DOH) to each resident family with an infant, and post infant safe sleep signage, also available from DOH, in each sleeping area in which a crib is placed for an infant resident. Safe sleeping information must be reviewed with the family at the time of admission as well as posted above the crib in the sleeping area. Additional Information can be found on the DOH website at <https://www.health.ny.gov/safesleep>. Brochures and posters are available to be printed out.

Annual Regulatory Requirements

Below is the list of regulatory requirements which must be met each year under the new regulations.

Certified Shelters

- Annual submission of facility budgets remains due on **January 1st** for shelters outside of New York City. All New York City shelter operating budgets will be due by **July 1st** annually, beginning with the City Fiscal Year (CFY) 2021 budget, which must be submitted by July 1, 2020 (attachments I and J). If the prior year budget was received by OTDA by the July 1st deadline and OTDA has not issued a final determination, the deadline for current year budget may be extended at OTDA's discretion.
- Serious incident reporting requirements are outlined in 16 TA/DC061. The new regulations require an immediate notification via telephone or email. This is a change from the previous directive that notification be made by both telephone and email. In the event the operator of

the shelter reports a serious incident to OTDA, the operator must also immediately notify the social services district.

Uncertified Shelters

- Annual submission of facility budgets remains due on **January 1st** for shelters outside of New York City. All New York City shelter operating budgets will be due by **July 1st** annually, beginning with the City Fiscal Year (CFY) 2021 budget, which must be submitted by July 1, 2020 (attachments I and J). If the prior year budget was received by OTDA by the July 1st deadline and OTDA has not issued a final determination the deadline for current year budget may be extended at OTDA's discretion.
- Annual submission of district-conducted inspections of uncertified facilities remains due by **June 22nd** until such time as the facility becomes certified. Inspection reports must be submitted to OTDA within 30 days of the inspection. All inspections for 2019-20 should be conducted between June 23, 2019 and June 22, 2020.
- Annual submission of updates to security plans or attestations, if nothing has changed, remains due by **April 1st** until the facility becomes certified. (attachments C and D)
- Serious incident reports are still required under 18 NYCRR § 352.38 as amended, but § 352.38 (b) no longer requires shelter operators to immediately report incidents to OTDA by both e-mail and telephone. Now, the shelter operator or the district must immediately report the incident to OTDA either by telephone or by e-mail. In the event the operator of the shelter reports a serious incident to OTDA, the operator must also immediately notify the social services district.

Hotels/Motels

- Submission of district conducted inspections remains due every six months for hotels/motels regularly used by the district. For additional information, please see 18 NYCRR § 352.3 (h), GIS 16 TA/DC049, GIS 17 TA/DC036.

V. Effective Date

Immediately.

Issued By:

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