



To: New York City Council Committee on Immigration & Committee on General Welfare
From: Ellinor Rutkey, Esq., The Door's Legal Services Center
Re: Oversight Hearing: Updates on the Implementation of the 30- and 60- Day Rules for Asylum Seekers

Date: November 19, 2024

The Door is a comprehensive youth development organization that has been supporting vulnerable youth in New York City since 1972. Each year, we provide services to nearly 9,000 young people between the ages of 12 and 24, many of them immigrants. The services we provide include healthcare, education, supportive housing, food and nutrition, career development, arts and recreation, mental health counseling, and legal assistance — all under one roof. We are also a Department of Youth and Community Development (DYCD) Runaway and Homeless Youth drop-in center, providing food, clothing, showers, laundry, and case management services to young people who are unhoused or unstably housed. At The Door, we emphasize empowering and engaging the young people we serve, and we are committed to creating a safe, equitable, and inclusive space for young people and staff.

The Legal Services Center at The Door is an office of over 50 individuals, including attorneys, social workers, and support staff. We specialize in serving vulnerable children and young people, including many clients who are unhoused, undocumented, and/or LGBTQIA+. Our attorneys represent youth in removal proceedings before immigration courts, as well as those seeking to regularize their status through the filing of affirmative humanitarian applications. In the fiscal year 2023, we handled 3,282 immigration matters for young people. We also operate several free legal clinics, including a weekly drop-in legal clinic for runaway/homeless youth.

I. Background on 30- and 60- Day Rules

Despite the longstanding right to shelter in New York City, recent immigrants living in city shelters face eviction every 30 or 60 days. Families with children and individuals under the age of 23 must leave their shelter (or apply for an extension) every 60 days, while adult families and individuals age 23 or older are afforded only 30 days before being forced to leave. These rules primarily impact recent immigrants who live in Humanitarian Emergency Response and Relief Centers (HERRCs), but over the summer, the City also began applying 30- and 60- day rules to evict families living in Department of Homeless Services (DHS) shelters.¹

i. Extensions

When a family or individual reaches the end of their 30- or 60-day period, they generally must either leave their shelter or request more time in the shelter system. Adults requesting more time (including young adults ages 18-24) typically must show that they are eligible to receive an

¹ Gwynne Hogan, *State Greenlights NYC Evicting More Migrant Families From Shelters*, The City (Aug. 20, 2024), <https://www.thecity.nyc/2024/08/20/mgrant-family-shelter-eviction-temporary-disability-assistance-homeless-services/>.



extension.² To be eligible, the individual must have taken “significant efforts to resettle.” Examples of “significant efforts to resettle” include taking English classes, getting a job, and retaining an immigration lawyer. By attempting to make a significant effort to resettle, an individual receives one point. An individual receives five points for successfully completing a task. For example, a recent immigrant who interviewed for a job but did not get the position would receive one point, but if the same person had in fact been hired for the position, they would receive five points. Individuals must either receive 20 points to be granted an extension or be eligible for an automatic extension. Automatic extensions are provided to those who are enrolled in high school or who are Permanently Residing Under Color of Law (“PRUCOL,” includes individuals who have filed for asylum, Temporary Protected Status (TPS), or (SIJS)).

When an extension is granted, there is no guarantee that the individual will be able to remain in the same shelter placement. The extension merely allows the individual to continue living in *a* shelter, not in the particular shelter where they lived when they made their extension request. It is common for recent immigrants to have to change shelters every time that an extension is granted – in other words, every 30 or 60 days.

ii. Who is Impacted by 30- and 60- Day Rules?

The new New Yorkers who are impacted by these policies – and especially, the young new New Yorkers with whom we work at The Door – are often in extremely vulnerable positions. Some of them have only just arrived in the United States after a perilous, long, and often traumatic journey from their countries of origin, while others have spent months – or even years – in immigration custody. Even before coming to the United States, many of these recent immigrants have already experienced significant trauma in their lives.

For example, one Door client entered the United States as an unaccompanied child and was placed in ORR custody (immigration detention) until his 18th birthday. Because he lacked a support network in the country, and because there was not a youth shelter bed available for him, he was forced to move into a HERRC and comply with the City’s 30- and 60-day rules. This young person decided to leave his home country in West Africa after years of being hit, whipped, and physically abused by his father. His favorite part of living in New York is getting to attend school – something he had been unable to do in his home country, as his father forced him to drop out of school to work on a farm at age 10.

Other Door clients subject to 30- and 60-day rules fled their home countries due to war or other violence. For instance, another Door client living in a HERRC came to the United States after traveling by plane, bus, and by foot from his home country in North Africa. The young person had made the difficult decision to leave his home country after rebel forces broke into his family’s home, raped his sister, and beat his brother to death before his eyes.

² There are two types of extensions: extensions pursuant to the *Callahan v. Carey* settlement, and extensions as a reasonable accommodation for a disability. The extension system described in this testimony is the *Callahan* extension system, though it is important to note that individuals with certain disabilities may be able to receive extensions as a reasonable accommodation.



II. 30- and 60- Day Rules are Unlawful and Inhumane

Under the *Callahan v. Carey* consent decree and its progeny, there is a legal right to shelter in New York City.³ This right does not depend on an individual’s immigration status, and it must still be enforced and respected, regardless of the resources available to the City and regardless of the demand for shelter. Nonetheless, the City has tried to abandon its promise to all people by attempting to evade its obligation to provide shelter through the use of 30- and 60- day rules.⁴

This is repugnant. Shelter is a human right. The City has a legal and moral duty to ensure that all of its people have access to safe, habitable shelter. Instead of fulfilling this duty, the Adams Administration has chosen to create an underclass of people who are afforded fewer rights than others. While non-immigrants and immigrants who did not enter the United States recently enjoy full access to the City’s shelter systems, recent immigrants are literally and metaphorically marginalized. They are sheltered in makeshift tent cities, many of which are located toward the outer edges of the city, and face eviction – from a *homeless shelter* – every 30- to 60- days. Recent immigrants are New Yorkers, and the City owes it to them to treat them as such. Everyone deserves to have their fundamental human needs met, and it is inhumane to infringe upon someone’s human rights based solely on their immigration status.

III. The Policy Scheme Is Illogical, Incoherent, and Based on False Assumptions

i. Recent Immigrants Live in HERRCs Out of Necessity, Not as a First Choice

When Mayor Adams announced the 30- and 60- day rules in October 2023, he called them “the only way to help migrants take the next steps on their journeys.”⁵ Speaking in support of the policy, Deputy Mayor for Health and Human Services stated that 30- and 60- day rules “will help us resettle people more quickly[,] helping them on their journey to independence.”⁶

These justifications are based on false assumptions. For one, this policy seems to assume that recent immigrants are living in shelters – and particularly, in HERRCs – as a first choice, and not as a last resort. In reality, those who live in shelters do so out of necessity. Particularly among the young people that we serve at The Door, many recent immigrants enter the country with no ties to the United States, let alone ties to the City of New York. These new New Yorkers do not have friends or family to call on for assistance with housing or other necessities. Further, because those subject to 30- and 60- day rules all recently arrived in the United States, most will not be eligible to obtain employment authorization for at least several months – and likely, much longer. With no source of income, securing housing on the private market is all but impossible for many individuals impacted by 30- and 60- day rules.

³ *The Callahan Consent Decree*, Coalition for the Homeless (Aug. 2014), <https://www.coalitionforthehomeless.org/wp-content/uploads/2014/08/CallahanConsentDecree.pdf>.

⁴ See *Save the Right to Shelter*, Coalition for the Homeless (last visited Nov. 8, 2024), <https://www.coalitionforthehomeless.org/save-the-right-to-shelter/>.

⁵ *As Number of Asylum Seekers in City’s Care Tops 64, 100, City Announces Additional Policies For Asylum Seekers in City Shelters*, N.Y.C. Off. of the Mayor (Oct. 16, 2023), <https://www.nyc.gov/office-of-the-mayor/news/780-23/as-number-asylum-seekers-city-s-care-tops-64-100-city-additional-policies-for>.

⁶ *Id.*



The assumption that recent immigrants would choose to stay in shelter rather than live independently is especially bewildering in light of the horrific conditions in HERRCs. HERRCs are inhospitable and alienating. With thousands of people staying in makeshift tent cities, HERRCs offer little to no privacy for their occupants. This lack of privacy can be especially difficult for the young people that we serve at The Door, who need solitude and a quiet space to process complex trauma. HERRCs also are open to people of all ages, meaning that young people in HERRCs often find themselves among much older adults rather than fellow teenagers and young adults. As a result, many young people say that they have not formed any sort of relationship with their fellow HERRC residents and instead feel isolated and unsafe.

In addition, HERRCs do not supply sufficient food to their occupants. Recent immigrants consistently report to Door staff members that they are given barely any food at their HERRCs. While food is a necessity for all people living in shelter, consistent access to nutritious and plentiful food is particularly important for young Door members, whose essential organs, including their brains, are still developing.

In light of these conditions, it is unfathomable to think that recent immigrants would choose to stay in a HERRC indefinitely out of desire to be there, if not for being forcibly evicted after a mere 30- or 60- days.

ii. This Policy Misunderstands What is Beneficial for New New Yorkers

This policy makes incorrect assumptions about what actions would be beneficial for new New Yorkers. This is particularly evidenced by the extension system. Because those subject to the 30- and 60-day rules generally must amass 20 points to avoid being evicted from shelter, they are greatly incentivized to complete the delineated actions in order to earn points. However, some of these actions may actually harm rather than help new New Yorkers.

For instance, recent immigrants can earn a quarter of the points needed for an extension if they have a job. The emphasis on having a job is so significant that some Door members report being pressured to work without work authorization by their shelter. But for many immigrants, working without a work permit may bar them from adjusting their status (i.e., receiving a green card).⁷ An immigrant who works without a work permit is also more vulnerable to exploitation. It is common for Door members who work without work permits to be paid below minimum wage or forced to work in dangerous conditions. For example, one Door member working without a work permit was paid between \$2.50 and \$4.00 per hour to haul trash. Even though those who work without work permits are protected under New York State labor laws, immigrants are often understandably apprehensive to enforce their rights out of concern that they could lose a necessary source of income or face legal consequences.

Similarly, recent immigrants can receive an automatic extension to their shelter stay if they have applied for immigration relief like asylum or TPS. Many Door members also report being

⁷ See *USCIS Policy Manual*, Vol. 7, Part B, Ch. 6: Unauthorized Employment (INA 245(c)(2) and INA 245(c)(8)) (last visited Nov. 6, 2024), <https://www.uscis.gov/policy-manual/volume-7-part-b-chapter-6>.



pressured to apply for asylum by staff at their shelters, regardless of their eligibility or the strength of their claim. Filing an asylum claim at an inopportune time and/or *pro se* (without legal representation) can actually make it harder for recent immigrants to leave shelter due to the timeline for work permit eligibility. An immigrant who applies for asylum can generally file their application for a work permit 150 days later. But if the applicant then has an immigration court appearance where they ask for an adjournment – a necessary step for immigrants still searching for lawyers – the 150-day clock stops until the applicant’s next immigration court appearance. Given how busy the immigration courts have been, that next immigration court appearance could easily be more than six months away. As a result, many asylum applicants will end up waiting even longer to receive their work permit than they would have had they not filed an application so quickly and before they could possibly find representation. Thus, although the 30- and 60- day policy operates on the assumption that it is in an immigrant’s best interest to file for asylum, doing so at the wrong time could actually make it more difficult for that immigrant to obtain a work permit and achieve greater stability.

iii. This Policy Creates Disproportionate Burdens for Families with Minor Children

Under the 30- and 60- day rules, anyone living in shelter may request to remain in shelter for a longer period of time following the expiration of their stay. Single adults and adult families may request extensions while still living in their current shelter. However, there is no guarantee that the request will be granted, or that the person making the request will be able to remain in the same shelter rather than have to move to a new shelter. But for the majority of families with minor children, requests to remain in shelter cannot be made while the family is living in their current shelter. Instead, these families must fully move out of their shelters every 60 days in order to request a new shelter placement.

This process is extremely burdensome for impacted families. Moreover, there is no logical reason why families with minor children should be subject to more onerous procedures than those without minor children.

iv. This Policy Makes It Disproportionately Difficult for People Evicted from Shelter to Reenter Shelter

As discussed in more detail below, many people who are evicted from shelter under the 30- and 60- day rules do not have anywhere else to go. As a result, recent immigrants who have been evicted from shelter often wish to reenter shelter. Those evicted from shelter have the right to reenter shelter if they can show that they are eligible for a shelter extension. However, this policy fails to recognize that being evicted from shelter has the perverse effect of making it more difficult to qualify for a shelter extension, and thus, more difficult to reenter shelter.

One reason why it is more difficult to qualify for an extension after being evicted from shelter is that certain services are only available to people who live in shelter. For example, recent immigrants can receive an automatic shelter extension if they have applied for asylum. Many recent immigrants cannot find an immigration lawyer to assist them with their applications, and so they apply for asylum *pro se* with the help of free legal clinics. The largest *pro se* asylum application assistance program in New York City is the Red Cross’ Asylum Application Help



Center (AAHC), which served nearly 70,000 people between June 2023 and September 2024.⁸ This program is only available to those who are living in shelter or who have recently left shelter.⁹ However, Door members report that it is nearly impossible to receive an appointment at the AAHC while no longer living in shelter, as almost all appointments are made through shelter staff. Moreover, the City has instructed AAHC referral sources to turn away individuals who are more than four weeks away from their asylum one-year filing deadline, leaving many individuals without the support that they need to complete their applications and reenter shelter.¹⁰

More generally, many of the actions that recent immigrants can take to qualify for an extension (or to reenter the shelter system) are made more difficult once someone has been evicted from shelter. For example, it is more difficult to secure employment or attend school if one has been denied even the semblance of stability that the HERRC system provides. As a result, this policy only further disadvantages those who are in the extremely vulnerable position of having been evicted from shelter.

IV. There Are Serious Issues with the Implementation of 30- and 60- Day Rules

Even if the 30- and 60- day policy were logically coherent and theoretically beneficial for those who are impacted, errors in the implementation of the policy still result in great harm. Door staff members frequently meet recent immigrants who have applied for shelter extensions and were erroneously denied. Some of these denials seem to be the result of poor training or inadequate knowledge. For example, one Door client living in a HERRC recently requested a shelter extension. In support of his request, he presented documents showing that he had been approved for SIJS – meaning that he was PRUCOL, and thus, eligible for an extension. Due to the worker’s unfamiliarity with SIJS, the young person’s extension request was denied. The worker then instructed the young person to apply for asylum so that he could receive an extension.

Had this denial not come to the attention of the young person’s legal team, it’s likely that he would have been forced to leave his shelter and fend for himself – the unfortunate reality for many recent immigrants who have been denied a shelter extension.

V. 30- and 60- Day Rules Cause Significant Harm to Vulnerable New New Yorkers

At the announcement of the 30- and 60-day rules, NYC Health + Hospitals leadership boasted that the policy would ensure that the City “deliver [s] life-changing assistance for the thousands of asylum seekers from around the world who turned to us for help.”¹¹ It is true that the City’s policy is life-changing for hundreds of thousands of recent immigrants, but not in a positive way. In reality, 30- and 60- day rules cause widespread and detrimental harm to some of the most vulnerable New Yorkers.

⁸ Daniel Parra, *Who Can Get Appointments at NYC’s Asylum Application Help Center, And Who Can’t?*, CityLimits (Sept. 11, 2024), <https://citylimits.org/2024/09/11/who-can-get-appointments-at-nycs-asylum-application-help-center-and-who-cant/>.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*



i. This Policy Creates Instability

These constant evictions, and the threat thereof, make it all but impossible for newly arrived immigrants to develop a sense of stability in New York. Door members subject to 30- and 60-day rules report that it is hard for them to make friends and form support networks. It is also hard for these new New Yorkers to take advantage of community-based resources, like mutual aid groups that distribute food and clothes. By the time that a HERRC resident learns about a resource in their community, or starts to develop a support network there, they will only be able to benefit from it for at most a few weeks before they are forced to leave that community. Others subject to 30- and 60- day rules may find that they never spend enough time in one place to develop any support networks or identify any potentially helpful resources.

ii. This Policy Undermines Access to Education

The threat of constant evictions under the 30- and 60- day shelter rules also makes it very difficult for young people to access education. Door members often report having to spend up to four hours round trip commuting to and from school because they were placed in a shelter very far away from their school. These young people may find it overly difficult to get to school, resulting in lateness, absenteeism, or even causing the young person to leave school entirely. This is particularly worrisome when so many of these young people have already experienced interruptions in their formal education.

Moreover, students who are unhoused or housing insecure generally struggle more in school than their housed peers. In the 2021-2022 school year, Advocates for Children found that students living in shelter were suspended from school about two times more often than students who were permanently housed.¹² Students living in shelter also perform “significantly below grade level” in English Language Arts, and only 11% of students living in shelter in grades three through eight were deemed proficient in math.¹³ Further, concerns about absenteeism and drop-out rates are not just hypothetical. In the 2021-2022 school year, 72% of students in shelter were chronically absent, while the graduation rate for students in shelter was a mere 62.8% – 22.3 points lower than the graduation rate for housed students.¹⁴ In light of the issues that unhoused students face in continuing their education, the 30- and 60- day rules again serve only to further disadvantage a population that already faces significant barriers to achieving their goals.

iii. This Policy Jeopardizes the Immigration Cases of Impacted Individuals

In order to successfully navigate the immigration process, it is crucial that immigrants have a reliable, safe address to which important documents can be sent. As a result of the 30- and 60-day policy, though, impacted immigrants are deprived of such consistency and stability. Door members who have had to move due to the policy often report that they never received key documents. For example, identification cards like Employment Authorization Documents or

¹² *Educational Indicators for Students Experiencing Homelessness, 2021-22*, Advocates for Children of New York (Nov. 2023), https://advocatesforchildren.org/wp-content/uploads/2024/03/sth_edu_indicators_21-22.pdf.

¹³ *Id.*

¹⁴ *Id.*



social security cards may be sent to an address where the recipient used to live, but to which the recipient no longer has access after being relocated under the 30- and 60- day rules.

Door members also report missing notices for immigration hearings and/or related appointments because those notices were sent to a previous shelter address. This can be disastrous for the impacted individual's immigration prospects. For example, missing an appointment for biometrics after the notice was delivered to an old address could result in the linked application being deemed "abandoned." Even more troublesome, impacted individuals may miss their immigration hearing if they do not receive their hearing notice. An individual who misses their immigration hearing will typically be ordered removed *in absentia*. These individuals may then be forcibly removed to a country where their wellbeing – and sometimes, lives – will be at risk, all through no fault of their own.

Under the upcoming Trump administration, these risks will only be greater. President-elect Trump has repeatedly boasted his flagrantly unlawful plan for mass deportations of immigrants.¹⁵ Those who have been ordered removed, including *in absentia*, will be at the greatest risk of being deported. Therefore, the 30- and 60- day rules are likely to cause even greater harm to recent immigrants come January 2025.

Moreover, recent legal changes are likely to result in increased criminalization of people experiencing street homelessness, including those who are evicted under 30- and 60- day rules. One such legal change is the passage of Proposal 2 ("Prop 2"), which expands the power of the New York City Department of Sanitation to perform dangerous "homeless sweeps."¹⁶ These sweeps have already been used to harm and further destabilize the lives of thousands of unhoused New Yorkers by dismantling tents, throwing away personal effects, and arresting people experiencing street homelessness.¹⁷ Now, those sheltering in public places after being evicted under the 30- and 60- day rules are likely to be subject to even more sweeps, and thus, at greater risk of arrest and criminalization. And, pursuant to recent precedent from the United States Supreme Court, the arrest and criminalization of unhoused people sleeping on public property is perfectly legal.¹⁸

With increased criminalization comes increased immigration risk, particularly for those who have already been ordered removed. A recent immigrant who is arrested may face immigration consequences for their arrest, including being placed in Immigration and Customs Enforcement (ICE) detention, being ordered removed, and even actually being deported. In this way, the 30-

¹⁵ See, e.g., Ted Hesson & Kristina Cooke, *Inside Trump's Plan for Mass Deportations – And Who Wants to Stop Him* (Nov. 10, 2024), <https://www.reuters.com/world/us/inside-trumps-plan-mass-deportations-who-wants-stop-him-2024-11-06/>.

¹⁶ Mohamed Taguine & Michael Sisitzky, *Why New Yorkers Should Vote "No" on Proposals 2 Through 6*, New York Civil Liberties Union (Oct. 10, 2024), <https://www.nyclu.org/commentary/why-new-yorkers-should-vote-no-on-proposals-2-through-6>.

¹⁷ *Housing First*, Office of the N.Y.C. Comptroller, Brad Lander (June 28, 2023), <https://comptroller.nyc.gov/reports/housing-first/>; David Brand, *Adams Made Homeless Sweeps a Priority. Tracking Their Outcomes? Not So Much.* (Sept 23, 2024), <https://gothamist.com/news/adams-made-homeless-sweeps-a-priority-tracking-their-outcomes-not-so-much>.

¹⁸ See *Grants Pass, Oregon v. Johnson*, 603 U.S. __ (2024), https://www.supremecourt.gov/opinions/23pdf/23-175_19m2.pdf.



and 60- day rules will soon be even more disastrous for recent immigrants than they already have proven to be over the last year.

iv. This Policy Causes Street Homelessness and Safety Risks

The most obvious result of this policy is that vulnerable people are being evicted with nowhere else to go. Although there are two several other shelter systems in the City, including the DHS shelter system for adults and families, and the DYCD shelter system for young people ages 16-24, it is nearly impossible for a person evicted from a HERRC to receive placement in either of these systems. Recent immigrants are almost always turned away from the DHS shelter system, regardless of the capacity of the DHS system to house more people.

Similarly, recent immigrants are also almost always turned away from the DYCD system, but this is due to lack of capacity within the DYCD system. Over the last two years, demand for youth shelters has skyrocketed. This increase in demand comes largely from the high number of recent immigrants to New York – many of whom are eligible to live in a youth shelter. However, there is a significant dearth of shelter beds within the DYCD system.¹⁹ On a daily basis, staff members at The Door speak with youth who have been unable to secure a bed in the youth shelter system. Many of these young people have tried repeatedly to find a bed without any success, constantly visiting and calling shelters in hopes that one will have a vacancy.

With essentially no ability to find other shelter placements in New York City, many new New Yorkers who have been evicted from shelter find themselves with nowhere else to go. Therefore, and unsurprisingly, this indefensible policy has resulted in many recent immigrants sleeping on the streets or otherwise entering dangerous living situations. At The Door, staff members regularly speak with young people who have been removed from their existing HERRC placement and have not been able to find anywhere else to stay. These young people are often forced to develop their own strategies for keeping themselves safe, such as gathering with other newly arrived immigrants and sleeping in shifts. For example, at a recent drop-in legal clinic for runaway/homeless youth, Door staff members met a 19-year-old who had spent the last month sleeping in the park, along with other recent immigrants who had also been evicted from shelter.

Other young people succeed in finding a place to stay, but at the cost of their own safety. For instance, when one newly arrived youth was unable to find a shelter placement, he moved into an apartment with several adults. These adults have coerced this young person into performing unpaid domestic labor, trapping him in an abusive setting. It goes without saying that the living situations that recent immigrants face after being evicted under the 30- and 60- day rules are extremely dangerous and completely unacceptable as a matter of policy.

¹⁹ See, e.g., Gwynne Hogan, *Youth Shelter System Locks Out Hundreds as Migrants Seek Entry*, The City (Mar. 12, 2024, 5:00 AM), https://www.thecity.nyc/2024/03/12/youth-shelter-system-locks-out-young-migrants/?oref=nyn_firstread_nl.



VI. Conclusion

The Adams Administration's 30- and 60- day rules are indefensible. They come nowhere near achieving the benefits they purport to achieve and, in fact, cause irreparable harm to some of the most vulnerable members of our community. In the interest of equity, the law, and fundamental human rights, it is imperative that the 30- and 60- day rules end immediately, and that new New Yorkers are treated with the compassion, respect, and care that they deserve.

Thank you.

Ellinor Rutkey, Esq.
Legal Fellow
The Door's Legal Services Center