

## Chapter 5

### OCCUPANCY STANDARDS AND UNIT OFFERS

#### INTRODUCTION

The PHA must establish policies governing the occupancy of dwelling units and offering dwelling units to qualified families.

This chapter contains policies for assigning unit sizes and making unit offers. The PHA's waiting list and selection policies are contained in Chapter 4. Together, Chapters 4 and 5 of the ACOP comprise the PHA's Tenant Selection and Assignment Plan (TSAP).

Policies in this chapter are organized in two parts.

Part I: Occupancy Standards. This part contains the PHA's standards for determining the appropriate unit size for families of different sizes, compositions, and types.

Part II: Unit Offers. This part contains the PHA's policies for making unit offers and describes actions to be taken when unit offers are refused.

#### PART I: OCCUPANCY STANDARDS

##### 5-I.A. OVERVIEW

Occupancy standards are established by the PHA to ensure that units are occupied by families of the appropriate size. This policy maintains the maximum usefulness of the units while preserving them from underutilization or excessive wear and tear due to overcrowding. Part I of this chapter explains the occupancy standards. These standards describe the methodology and factors the PHA will use to determine the size unit for which a family qualifies and include the identification of the minimum and maximum number of household members for each unit size. This part also identifies circumstances under which an exception to the occupancy standards may be approved.

##### 5-I.B. DETERMINING UNIT SIZE

In selecting a family to occupy a particular unit, the PHA may match the characteristics of the family with the type of unit available, for example, the number of bedrooms [24 CFR 960.206(c)].

HUD does not specify the number of persons who may live in public housing units of various sizes. PHAs are permitted to develop appropriate occupancy standards as long as the standards do not have the effect of discriminating against families with children [PH Occ GB, p. 62].

Although the PHA does determine the size of the unit the family qualifies for under the occupancy standards, the PHA does not determine who shares a bedroom/sleeping room.

The PHA's occupancy standards for determining unit size must be applied in a manner consistent with fair housing requirements.

## PHA Policy

The PHA will use the same occupancy standards for each of its developments.

The PHA's occupancy standards are as follows:

The PHA will assign one bedroom for each two persons within the household, except in the following circumstances:

Persons of the opposite sex (other than spouses/partners) will be allocated separate bedrooms.

Persons of different generations (for this purpose, defined as more than a 5-year age difference) will not be required to share a bedroom, except:

A single pregnant woman with no other household members will be assigned a one-bedroom unit. Assuming no other changes in family composition, after the child reaches the age of 1 year, the family will be eligible for a transfer to a 2-bedroom unit.

Otherwise, an unborn child will not be counted as a person in determining unit size.

A single parent with one child and no other household members at admission will be assigned a two-bedroom unit.

Live-in aides will be allocated a separate bedroom. No additional bedrooms will be provided for the live-in aide's family.

Single-person families will be allocated a zero or one-bedroom.

Children related to a family member by birth, adoption, or court-awarded custody will be considered when determining unit size.

Foster children will be considered when determining unit size. The family may add foster children to the household as long as it does not overcrowd the unit based on the PHA's occupancy standards.

Children away at school, but for whom the unit is considered the primary residence, and children temporarily placed outside the home, will be considered when determining unit size.

Children in the process of being adopted will be considered when determining unit size.

Children who will live in the unit less than 50 percent of the time will not be considered when determining unit size.

The PHA will reference the following standards in determining the appropriate unit bedroom size for a family:

<b>BEDROOM SIZE</b>	<b>MINIMUM NUMBER OF PERSONS</b>	<b>MAXIMUM NUMBER OF PERSONS</b>
0	1	1
1	1	2
2	2	4
3	3	6
4	4	8
5	6	10
6	8	12

### **5-I.C. EXCEPTIONS TO OCCUPANCY STANDARDS**

#### **Types of Exceptions**

##### PHA Policy

The PHA will consider granting exceptions to the occupancy standards at the family's request if the PHA determines the exception is justified by the relationship, age, sex, health or disability of family members, or other personal circumstances.

For example, an exception may be granted if a larger bedroom size is needed for medical equipment due to its size and/or function, or as a reasonable accommodation for a person with disabilities. An exception may also be granted for a smaller bedroom size in cases where the number of household members exceeds the maximum number of persons allowed for the unit size in which the family resides (according to the chart in Section 5-I.B) and the family does not want to transfer to a larger size unit.

When evaluating exception requests the PHA will consider the size and configuration of the unit. In no case will the PHA grant an exception that is in violation of local housing or occupancy codes, regulations, or laws.

Requests from applicants to be placed on the waiting list for a unit size smaller than designated by the occupancy standards will be approved as long as the unit is not overcrowded according to local code, and the family agrees not to request a transfer for a period of two years from the date of admission, unless they have a subsequent change in family size or composition.

To prevent vacancies, the PHA may provide an applicant's family with a larger unit than the occupancy standards permit. However, in these cases, the family must agree to move to a suitable, smaller unit when another family qualifies for the larger unit and there is an appropriate size unit available for the family to transfer to.

## **Processing of Exceptions**

### PHA Policy

All requests for exceptions to the occupancy standards must be submitted in writing.

In the case of a request for an exception as a reasonable accommodation, the PHA will encourage the resident to make the request in writing using a reasonable accommodation request form. However, the PHA will consider the exception request any time the resident indicates that an accommodation is needed whether or not a formal written request is submitted.

Requests for a larger size unit must explain the need or justification for the larger size unit and must include appropriate documentation. Requests based on health-related reasons must be verified by a knowledgeable professional source unless the disability and the disability-related request for accommodation is readily apparent or otherwise known.

The PHA will notify the family of its decision within 10 business days of receiving the family's request.

## **PART II: UNIT OFFERS**

24 CFR 1.4(b)(2)(ii); 24 CFR 960.208

### **5-II.A. OVERVIEW**

The PHA must assign eligible applicants to dwelling units in accordance with a plan that is consistent with civil rights and nondiscrimination laws.

In filling an actual or expected vacancy, the PHA must offer the dwelling unit to an applicant in the appropriate offer sequence. The PHA will offer the unit until it is accepted. This section describes the PHA's policies with regard to the number of unit offers that will be made to applicants selected from the waiting list. This section also describes the PHA's policies for offering units with accessibility features.

### PHA Policy

The PHA will maintain a record of units offered, including the location, date, and circumstances of each offer, each acceptance or rejection, including the reason for the rejection.

### **5-II.B. NUMBER OF OFFERS**

### PHA Policy

The PHA has adopted a "two-offer plan" for offering units to applicants. Under this plan, when a unit of suitable size and type in the appropriate type of project is anticipated as becoming available, the applicant will be offered that unit.

If the offer is rejected, the unit will be offered to the next suitable family on the waiting list. The first family will be offered the next unit of suitable size and type in the appropriate type of project. This is the final offer to the family unless there is good cause for refusing the offer.

The offers will be made in sequence and the applicant must refuse an offer before another is made.

### **5-II.C. TIME LIMIT FOR UNIT OFFER ACCEPTANCE OR REFUSAL**

#### PHA Policy

Applicants must accept or refuse a unit offer within 2 business days of the date of the unit offer.

Offers made by telephone will be confirmed by letter.

### **5-II.D. REFUSALS OF UNIT OFFERS**

#### **Good Cause for Unit Refusal**

An elderly or disabled family may decline an offer for designated housing. Such a refusal must not adversely affect the family's position on or placement on the public housing waiting list [24 CFR 945.303(d)].

#### PHA Policy

Applicants may refuse to accept a unit offer for “good cause.” *Good cause* includes situations in which an applicant is willing to move but is unable to do so at the time of the unit offer, or the applicant demonstrates that acceptance of the offer would cause undue hardship not related to considerations of the applicant’s race, color, national origin, etc. [PH Occ GB, p. 104]. Examples of good cause for refusal of a unit offer include, but are not limited to, the following:

The family demonstrates to the PHA’s satisfaction that accepting the unit offer will require an adult household member to quit a job, drop out of an educational institution or job training program, or take a child out of daycare or an educational program for children with disabilities.

The family demonstrates to the PHA’s satisfaction that accepting the offer will place a family member’s life, health, or safety in jeopardy. The family should offer specific and compelling documentation such as restraining orders; other court orders; risk assessments related to witness protection from a law enforcement agency; or documentation of domestic violence, dating violence, sexual assault, or stalking in accordance with section 16-VI.D of this ACOP. The reasons offered must be specific to the family. Refusals due to location alone do not qualify for this good cause exemption.

A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members (as listed on the final application), or live-in aide necessary to the care of the principal household member.

The unit is inappropriate for the applicant’s disabilities, or the family does not need the accessible features in the unit offered and does not want to be subject to a 30-day notice to move.

The unit has lead-based paint and the family includes children under the age of six.

In the case of a unit refusal for good cause the applicant will not be removed from the waiting list as described later in this section. The applicant will remain at the top of the waiting list until the family receives an offer for which they do not have good cause to refuse.

The PHA will require documentation of good cause for unit refusals.

### **Unit Refusal without Good Cause**

#### PHA Policy

When an applicant rejects the final unit offer without good cause, the PHA will remove the applicant's name from the waiting list and send notice to the family of such removal. The notice will inform the family of their right to request an informal hearing and the process for doing so (see Chapter 14).

The applicant cannot reapply for assistance for six months. If the waiting list is not open, the applicant must wait to reapply until the PHA opens the waiting list.

### **5-II.E. ACCESSIBLE UNITS [24 CFR 8.27]**

PHAs must adopt suitable means to assure that information regarding the availability of accessible units reaches eligible individuals with disabilities, and take reasonable nondiscriminatory steps to maximize the utilization of such units by eligible individuals whose disability requires the accessibility features of a particular unit.

When an accessible unit becomes vacant, before offering such units to a non-disabled applicant the PHA must offer such units:

- First, to a current resident of another unit of the same development, or other public housing development under the PHA's control, who has a disability that requires the special features of the vacant unit and is occupying a unit not having such features, or if no such occupant exists, then
- Second, to an eligible qualified applicant on the waiting list having a disability that requires the special features of the vacant unit.

When offering an accessible unit to an applicant not having a disability requiring the accessibility features of the unit, the PHA may require the applicant to agree (and may incorporate this agreement in the lease) to move to a non-accessible unit when available.

#### PHA Policy

Families requiring an accessible unit may be over-housed in such a unit if there are no resident or applicant families of the appropriate size who also require the accessible features of the unit.

When there are no resident or applicant families requiring the accessible features of the unit, including families who would be over-housed, the PHA will offer the unit to a non-disabled applicant.

When offering an accessible unit to a non-disabled applicant, the PHA will require the applicant to agree to move to an available non-accessible unit within 30 days when either a current resident or an applicant needs the features of the unit and there is another unit available for the non-disabled family. This requirement will be a provision of the lease agreement.

#### **5-II.F. DESIGNATED HOUSING**

When applicable, the PHA's policies for offering units designated for elderly families only or disabled families only are described in the PHA's Designated Housing Plan.