

## Chapter 5

### OCCUPANCY STANDARDS AND UNIT OFFERS

#### INTRODUCTION

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

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

Policies in this chapter are organized in two parts.

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

Part II: Unit Offers. This part contains the HACB'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 HACB 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 from excessive wear and tear due to overcrowding. Part I of this chapter explains the occupancy standards. These standards describe the methodology and factors the HACB will use to determine the size unit for which a family qualifies, and includes 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 HACB may match characteristics of the family with the type of unit available, for example, 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. HACBs 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 HACB does determine the size of unit the family qualifies for under the occupancy standards, the HACB does not determine who shares a bedroom/sleeping room.

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

### HACB Policy

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

The HACB's occupancy standards are as follows:

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

Persons of the opposite sex (other than spouses, and children under age 5) will not be required to share a bedroom.

Persons of different generations will not be required to share a bedroom.

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.

Foster children will be included in determining unit size.

The HACB 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**

#### HACB Policy

The HACB will consider granting exceptions to the occupancy standards at the family's request if the HACB 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 HACB will consider the size and configuration of the unit. In no case will the HACB 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 HACB may provide an applicant 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**

#### HACB Policy

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

In the case of a request for exception as a reasonable accommodation, the HACB will encourage the resident to make the request in writing using a reasonable accommodation request form. However, the HACB 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 HACB 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 HACB 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 HACB will first match the apartment available to the highest ranking applicant for an apartment of that size, type and special features (if any), taking into account designated housing. Authority Preferences will then be used to determine the order of selection from the waitlist. If two applicants need the same type and size of apartment and have the same preference status, the applicant with the earlier date and time of application or lower application number will receive the earliest offer. The applicant first in sequence on the waitlist is offered a unit of the size and type appropriate to the applicant's needs.

This section describes the HACB's policies with regard to the unit offers that will be made to applicants selected from the waiting list. This section also describes the HACB's policies for offering units with accessibility features.

#### HACB Policy

The HACB will maintain a record of units offered, including location, date and circumstances of each offer, each acceptance or rejection, including the reason for the rejection. If the applicant refuses the offer without good cause, the applicant will either be dropped to the bottom of the waitlist or removed from the waitlist altogether.

- Each applicant receives one unit offer;
- Unless the applicant has Good Cause for refusing the unit offer, the applicant should accept the unit offer; or be dropped to the bottom of or removed from the waitlist.

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

#### HACB Policy

The HACB has adopted a "one unit offer plan" for offering units to applicants. Under this plan, the HACB will determine which location within its jurisdiction has an available unit of suitable size and type in the appropriate type of project. The unit offer will be based on the distribution of vacancies. If a suitable unit is available the applicant will be offered a suitable unit in that location.

- If an applicant does not accept the first unit offered—for Good Cause, they will be then offered a second unit.
- If an applicant does not accept the second unit and there isn't Good Cause to reject it, then the applicant will be removed from the waitlist.
- If an applicant does not accept the second unit because of Good Cause, they will be offered one additional unit. If the applicant refuses this offer, they will be removed from the waitlist.

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

### **HACB Policy**

Applicants must accept or refuse a unit offer within 3 business days of the date of the unit offer. If the applicant does not accept the unit offer within the time frame indicated above, the applicant will be withdrawn from the waiting list and cannot reapply for twelve (12) months from the date of withdrawal.

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 a unit 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)].

### **HACB 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 HACB'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 day care or an educational program for children with disabilities.

A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members (as listed on 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 HACB will require documentation of good cause for unit refusals.

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

#### HACB Policy

When an applicant rejects the final unit offer without good cause, the HACB 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 may reapply for assistance if the waiting list is open. If the waiting list is not open, the applicant must wait to reapply until the HACB opens the waiting list.

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

HACBs 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 HACB must offer such units:

- First, to a current resident of another unit of the same development, or other public housing development under the HACB'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 HACB may require the applicant to agree (and may incorporate this agreement in the lease) to move to a non-accessible unit when available.

#### HACB 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 HACB will offer the unit to a non-disabled applicant.

When offering an accessible unit to a non-disabled applicant, the HACB 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 HACB's policies for offering units designated for elderly families only or for disabled families only are described in the HACB's Designated Housing Plan.