

2-II.D. VERIFICATION OF DISABILITY

The regulatory civil rights definition for persons with disabilities is provided in Exhibit 2-1 at the end of this chapter. The definition of a person with a disability for the purpose of obtaining a reasonable accommodation is much broader than the HUD definition of disability which is used for waiting list preferences and income allowances.

Before providing an accommodation, HACCC must determine that the person meets the definition of a person with a disability, and that the accommodation will enhance the family's access to HACCC's programs and services.

If a person's disability is obvious or otherwise known to HACCC, and if the need for the requested accommodation is also readily apparent or known, no further verification will be required [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

If a family indicates that an accommodation is required for a disability that is not obvious or otherwise known to HACCC, HACCC must verify that the person meets the definition of a person with a disability, and that the limitations imposed by the disability require the requested accommodation.

When verifying a disability, HACCC will follow the verification policies provided in Chapter 7. All information related to a person's disability will be treated in accordance with the confidentiality policies provided in Chapter 16 (Program Administration). In addition to the general requirements that govern all verification efforts, the following requirements apply when verifying a disability:

- Third-party verification must be obtained from an individual identified by the family who is competent to make the determination. A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may provide verification of a disability [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].
 - Unless the disability is obvious or known to HACCC, in order to be eligible for a reasonable accommodation, the person seeking the accommodation must have an appropriately licensed and knowledgeable professional verify three (3) things:
 - First, that the requestor meets the definition of having a disability.
 - Second, that the requested accommodation is medically necessary in order for the requestor to fully enjoy the housing and other benefits provided by HACCC housing programs, and that the requestor would be unable to fully enjoy those program benefits without the requested accommodation.
 - Finally, that there is an identifiable relationship, or nexus, between the requestor's disability and the requested accommodation(s).
- HACCC must request only information that is necessary to evaluate the disability-related need for the accommodation. HACCC may not inquire about the nature or extent of any disability.
- Medical records will not be accepted or retained in the participant file.
- In the event that HACCC does receive confidential information about a person's specific diagnosis, treatment, or the nature or severity of the disability, HACCC will dispose of it.

the right to appeal HACCC's decision through an informal hearing (if applicable) or the grievance process (see Chapter 14).

2-II.F. Reasonable Accommodation Reassessment

HACCC Policy

The need for a reasonable accommodation may change over time due to a variety of factors. To ensure program integrity, appropriate use of funds, and continued compliance with fair housing laws, HACCC may conduct periodic reevaluations of previously approved accommodations. Families will be notified in writing if any reassessment of a previously approved accommodation is initiated. The notice will describe the circumstances resulting in the reassessment and will detail how HACCC will assist the family to re-engage the interactive process.

Any family with an approved Reasonable Accommodation will be reengaged in the interactive process when the duration of the disability related to the accommodation is temporary in nature or not known at the time of approval. Such reassessments will generally be initiated at the "revisit date" indicated upon approval or at the next scheduled reexamination (whichever date is later).

In certain circumstances, withdrawing previously approved accommodation may be necessary without initiating a reassessment. Examples include but are not limited to:

- 1) The death of a household member for which a Live in Aid was provided as an accommodation.
- 2) The removal of a household member for which a single bedroom was provided as an accommodation.
- 3) In response to a request from the family to withdraw a previously approved accommodation.
- 4) A family's disengagement from the search to fill a vacated Live-in aide position.
- 5) Credible evidence that the accommodation is being used in a way that violates program policies or was based on inaccurate or false information. This includes determinations made during regularly scheduled inspections of the unit where it is confirmed that the extra bedrooms approved for necessary medical equipment are not being used for the intended purpose (PIH 2010-51, OIG 2012-KC-1005).

These circumstances are described in notices to families who have been approved for Reasonable Accommodations. Additionally, families are notified of any subsidy size changes in writing and all participating families reserve the right to request a hearing to appeal any subsidy size determination by HACCC.

Additional circumstances prompting reassessments of previously approved Reasonable Accommodations may be identified in the course of leasing and continued eligibility activities.

When possible, reassessments of previously approved accommodations will be initiated based on general criteria as opposed to individual referrals. Examples include but are not limited to:

- 1) A family seeking tenancy in an apartment complex was approved for an extra bedroom for the storage of medically necessary equipment (oxygen tanks). Years later, the family requests tenancy at a single-family home with additional storage space.

While the need for the accommodation in this scenario will be reassessed, HACCC should as well, initiate a phased reassessment of all accommodations approved for the storage of medical equipment where the family has a later move from a unit type “apartment” to unit type “single family home”.

- 2) A family member is approved to have a Live-in aide. Years later, the family reports that the member approved for a Live-in Aide is working as a merchant marine and is often deployed for several weeks at a time.

While the need for the accommodation in this scenario will be reassessed, HACCC should as well, initiate a phased reassessment of all accommodations approved for members to have a Live-in Aide who also have income from work or self-employment exceeding a certain amount.

2-II.FG. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS

HUD regulations require HACCC to take reasonable steps to ensure that persons with disabilities related to hearing and vision have reasonable access to HACCC's programs and services [24 CFR 8.6].

At the initial point of contact with each applicant, HACCC shall inform all applicants of alternative forms of communication that can be used other than plain language paperwork.

HACCC Policy

To meet the needs of persons with hearing impairments, TTD/TTY (text telephone display / teletype) communication will be available.

To meet the needs of persons with vision impairments, large-print and audio versions of key program documents will be made available upon request. When visual aids are used in public meetings or presentations, or in meetings with HACCC staff, one-on-one assistance will be provided upon request.

Additional examples of alternative forms of communication are sign language interpretation; having material explained orally by staff; or having a third-party representative (a Contractor of the Authority, a friend, relative or advocate, requested by the applicant) to receive, interpret and explain housing materials and be present at all meetings.

2-II.GH. PHYSICAL ACCESSIBILITY

HACCC must comply with a variety of regulations pertaining to physical accessibility, including the following.

- Notice PIH 2010-26
- Section 504 of the Rehabilitation Act of 1973

the right to appeal HACCC's decision through an informal hearing (if applicable) or the grievance process (see Chapter 14).

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3-I.M. LIVE-IN AIDE

Live-in aide means a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who: (1) is determined to be essential to the care and well-being of the persons, (2) is not obligated for the support of the persons, and (3) would not be living in the unit except to provide the necessary supportive services [24 CFR 5.403].

HACCC must approve a live-in aide if needed as a reasonable accommodation for a person with disabilities in accordance with 24 CFR 8.

A live-in aide is considered a household member but not a family member. The income of the live-in aide is not counted in determining the annual income of the family [24 CFR 5.609(c)(5)]. Relatives may be approved as live-in aides if they meet all the criteria defining a live-in aide. However, a relative who serves as a live-in aide is not considered a family member and would not be considered a remaining member of a tenant family. HACCC will require the live-in aide to execute a Live-in Aide Statement/Release agreeing to abide by the terms and conditions of occupancy set forth in the lease agreement. If the live-in aide violates provisions of the Statement Release, HACCC may take action against the live-in aide separate from action against the assisted family.

HACCC Policy

A family's request for a live-in aide must be made in writing. Written verification that the live-in aide is essential for the care and well-being of the elderly, near elderly, or disabled family member will be required from a reliable, knowledgeable professional of the family's choosing, such as a doctor, social worker, or case worker, unless the disability-related need is apparent or known to HACCC. For continued approval, the family must submit a new, written request—subject to HACCC verification—at each annual reexamination. In addition, the family and live-in aide will be required to submit a certification stating that the live-in aide is (1) not obligated for the support of the person(s) needing the care, and (2) would not be living in the unit except to provide the necessary supportive services.

A current family member who satisfies the definition of a Live-in Aide and wishes to serve in that role for the disabled or elderly household member will be notified in writing that they can choose one of the following two options:

1. They can qualify as a Live-in Aide, which is considered a household member, but not a family member, and choose not to include their income as part of the Total Household Income, and sign a waiver of residual residency status permanently revoking their rights to the unit as a subsidized family member,

OR

+2. They can qualify as a family member who cares for their disabled or elderly family member and have their income included as part of the total Household income and retain rights as a potential residual tenant.

HACCC has the discretion not to approve a particular person as a live-in aide, and may withdraw such approval, if [24 CFR 966.4(d)(3)(i)]:

EXHIBIT 3-3: LIVE-IN AIDE AGREEMENT

I _____ request to add _____
(Head of Household) (Live-in aide)
as the designated live-in aide, who will reside with me at _____

(Current Unit Address)
I _____ agree to assume the role of the designated live-in aide for this
(Live-in aide)
Household and will reside at _____
(Current Unit Address)

The undersigned understand and agree to the following:

- The live-in aide will reside in the above mentioned unit because a live-in aide was determined to be essential to the care and well-being of a member of the subsidized family.
- The live-in aide would not be living in the unit/ with the assisted family except to provide the necessary supportive services . As such, we understand that if the live-in aide is found to be unable or unwilling to perform the essential care (e.g., they have a conflicting commitment such as work, school, caretaking resulting in rotating or intermittent availability to provide essential care), we understand that the HACCC may take appropriate action, including adjusting the family bedroom size, and/or withdrawing approval of the live-in aide in general, or of the specific person approved to fill the role of the live-in aide.
- We understand that HACCC may inspect the unit periodically to ensure that the live-in aide is currently present and/ or providing the essential care for which the additional bedroom was allocated and that if it is discovered that the additional bedroom is not being used by the live-in aide, the HACCC may take appropriate action, including adjusting the family bedroom size, and/or withdrawing approval of the live-in aide in general, or of the specific person approved to fill the role of the live-in aide.
- We understand that Live-in aides may not be considered a "remaining household member"; the live-in aide has no further right to occupy the premises or retain the subsidy when their service to the participant ends.
- The live-in aide agrees to leave the assisted household when (a) authorized members of the subsidized household request their removal or (b) if the family member's need for a Live-in aide or disability ceases or cannot be supported or (c) if the family member for which the Live-in aide was approved is removed from the household.
- We understand that while the live-in aide and their family members may be permitted to move into the unit if doing so does not overcrowd the unit, approval of the live-in aide increases the family bedroom size by no more than 1 bedroom only after the live-in aide is "identified" and approved by HACCC.
- We understand that the family bedroom size may only be increased for identified live-in aides approved by HACCC and that HACCC may take appropriate action, including adjusting the family bedroom size, and/or withdrawing approval of the live-in aide in general if the family disengages from attempts to fill a vacated Live-in aide position
- We understand that HACCC may refuse to approve a particular person as a live-in aide or may withdraw such approval if (a) the person commits fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program or (b) the person commits drug-related criminal activity or violent criminal activity; or (c) the person currently owes rent or other amounts to the HA or to another HA in connection with Section 8 or public housing assistance under the 1937 Act, or (d) if other terms of the ACOP or Administrative Plan bar their participation in the assistance program.

I certify that the information I have provided is true and accurate. I understand and agree to the responsibilities outlined in this agreement. I understand that this agreement does not alter or limit my rights under applicable disability laws.

(Printed name of Live-in aide) (Signature of Live-in aide) (Date)

(Printed name of Head of Household) (Signature of Head of Household) (Date)

5-I.B. DETERMINING UNIT SIZE

In selecting a family to occupy a particular unit, HACCC 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. HACCC is 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 HACCC does determine the size of unit the family qualifies for under the occupancy standards, HACCC does not determine who shares a bedroom/sleeping room.

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

HACCC Policy

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

HACCC's occupancy standards are as follows:

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

- Live-in aides will be allocated a separate sleeping area. Approval of a live-in aide does not automatically result in the approval of an additional bedroom. Requests for an additional bedroom to accommodate a live-in aide must include documentation of the need for a separate bedroom. HACCC will evaluate requests on a case-by-case basis to determine whether an additional bedroom is reasonable and necessary. The determination of whether a live-in aide is approved will be made separately from the determination of whether an additional bedroom is approved; approval of one does not guarantee approval of the other. No additional bedrooms will be provided for the live-in aide's family.
- Single person families will be allocated a zero or one bedroom.
- Adults of different generations, persons of the opposite sex (other than spouses), and unrelated adults will not be required to share a bedroom.
- HACCC will review the occupancy standards prior to approving the live-in aide. HACCC cannot use unit size as a reason to refuse to allow a live-in aide as a reasonable accommodation to a resident's disability.

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

BEDROOM SIZE	MINIMUM NUMBER OF PERSONS	MAXIMUM NUMBER OF PERSONS
0	1	2
1	1	3
2	2	5

5-I.C. EXCEPTIONS TO OCCUPANCY STANDARDS

Types of Exceptions

HACCC Policy

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

For example, a ~~For example, a~~ An exception may be granted if a larger bedroom size or an additional bedroom is needed for medical equipment due to its size and/or function, or as a reasonable accommodation for a person with disabilities.

The family's continued need for an additional bedroom due to special medical equipment may be required to be re-verified annually at the annual reexamination depending on whether the verification designates the duration of medical need as permanent or temporary. HACCC may withdraw approval of the additional bedroom added for the storage of necessary medical equipment and may adjust the family bedroom size in accordance with 2-II.F. Reasonable Accommodation Reassessment.

HACCC will notify the family of its determination within 15 calendar days of receiving the family's request or within 15 calendar days after receipt of verification by a knowledgeable professional if the request is based on disability-related reasons. If a participant family's request is denied, the notice will inform the family of their right to request an informal hearing.

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 HACCC will consider the size and configuration of the unit. In no case will HACCC 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.

In properties with a vacancy rate greater than 5%, HACCC may offer a family a larger unit than the one the family qualifies for under HACCC guidelines. 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

HACCC Policy

All requests for exceptions to the occupancy standards must be submitted in writing, which may include email.

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New Family and Household Members Requiring Approval

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request HACCC approval to add a new family member [24 CFR 966.4(a)(1)(v)] or other household member (live-in aide or foster child) [24 CFR 966.4(d)(3)].

HACCC may adopt reasonable policies concerning residence by a foster child or a live-in aide and defining the circumstances in which HACCC consent will be given or denied. Under such policies, the factors considered by HACCC may include [24 CFR 966.4(d)(3)(i)]:

- Whether the addition of a new occupant may necessitate a transfer of the family to another unit, and whether such units are available.
- HACCC's obligation to make reasonable accommodation for persons with disabilities.

HACCC Policy

Families must request HACCC approval to add a new family member (other than due to birth, adoption, or court-awarded custody), live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 14 days in a row (consecutive days) or a total of 30 days in any 12 month period (30 cumulative calendar days during any 12-month period) and therefore no longer qualifies as a "guest." (See Guest Policy, 3-I.J. for more information.) Requests must be made in writing and approved by HACCC prior to the individual moving into the unit. ~~HACCC will only approve spouses to be added to the lease. The addition of any other adult would be superseding the waiting list.~~

A family also includes two or more individuals who are not related by blood, marriage, adoption, or other operation of law, but who either can demonstrate that they have lived together previously or certify that each individual's income and other resources will be available to meet the needs of the family.

Each family must identify the individuals to be included in the family at the time of application and must notify HACCC if the family's composition changes. After the family has been admitted into the program, additions may be made in the following circumstances at the sole discretion of HACCC:

1. Birth of a child to a current family member.
2. Adoption of a child by a current family member.
3. Court-awarded custody of greater than 50 percent of a child to a current family member.
4. Legal guardianship of a minor or conservatorship of a dependent adult family member granted to a current family member.
5. As result of marriage by a current family member.
6. As result of a civil union created under any state law by a current family member.
7. As a result of a registered domestic partnership under any state law by a current family member.
8. As a result of a returning family member from active military service.
9. As a result of returning or placement of a parent to an existing minor in the family.

10. As a result of placement of a foster child(ren) or foster adult(s) if their presence would not result in a violation of HQS space standards according to 24 C.F.R. § 982.401.
11. As a result of returning or placement of elderly parents or grandparents to be cared for by current family members as certified by a medical professional.
12. Consolidation of two families assisted by the PHA, resulting in the relinquishment of one family's subsidy, when the consolidation is necessary for the care of an elderly or disabled family member.

If adding a person to a household (other than a child by birth, adoption, or court-awarded custody) will require a transfer to a larger size unit (under the transfer policy in Chapter 12), HACCC will approve the addition only if the family can demonstrate that there are medical needs or other extenuating circumstances, including reasonable accommodation, that should be considered by HACCC. Exceptions will be made on a case-by-case basis.

HACCC will not approve the addition of a new family or household member unless the individual meets HACCC's eligibility criteria (see Chapter 3) and documentation requirements (See Chapter 7, Part II).

If HACCC determines that an individual does not meet HACCC's eligibility criteria or documentation requirements, HACCC will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

HACCC will make its determination within 10 calendar days of receiving all information required to verify the individual's eligibility.

Pet Agreement

HACCC Policy

Residents who have been approved to have a pet must enter into a pet agreement with HACCC, or the approval of the pet will be withdrawn.

The pet agreement is the resident's certification that he or she has received a copy of HACCC's pet policy and applicable house rules, that he or she has read the policies and/or rules, understands them, and agrees to comply with them.

The resident further certifies by signing the pet agreement that he or she understands that noncompliance with HACCC's pet policy and applicable house rules may result in the withdrawal of HACCC's approval of the pet or termination of tenancy.

10-IL.C. STANDARDS FOR PETS [24 CFR 5.318; 960.707(b)]

HACCC may establish reasonable requirements related to pet ownership including, but not limited to:

- Limitations on the number of animals in a unit, based on unit size
- Prohibitions on types of animals that HACCC classifies as dangerous, provided that such classifications are consistent with applicable state and local law
- Prohibitions on individual animals, based on certain factors, including the size and weight of the animal
- Requiring pet owners to have their pets spayed or neutered
- Requiring pet owners to have their pets up-to-date on certain vaccinations

Cat declawing is not a requirement or condition of pet ownership in public housing and HUD encourages HACCC to refrain from engaging in this practice [New PH OCC GB, *Pet Ownership*, p. 9].

HACCC's may not require pet owners to have any pet's vocal cords removed.

HACCC may not require pet owners to obtain or carry liability insurance.

Definition of "Common Household Pet"

There is no regulatory definition of common household pet for public housing programs, although the regulations for pet ownership in both elderly/disabled and general occupancy developments use the term. The regulations for pet ownership in elderly/disabled developments expressly authorize HACCC to define the term [24 CFR 5.306(2)].