

Familial Status and Curfews/Supervision: What You Need to Know

Curfews for children treat children differently than adults, so on their face they are discriminatory.

If you impose curfews on children or require them to be supervised by adults when outside, follow the information below.

Do you have in writing a “compelling business necessity” for your curfew and supervision policy?

No:
Your policy is risky!
Consult an attorney immediately.

Yes:
Is your policy based on a reduction in specific categories of crimes (e.g. violent, property, nuisance, etc.?)

Yes:
Is your policy based on protecting children of specific ages (e.g. under 16, 14, 12?)

Do you have quantifiable evidence to support your compelling business necessity for:

Crime Reduction

No:
Your policy is risky!
Reconsider!

Yes:
Have you considered a less restrictive way to reduce crime?

Yes:
Document fully with third-party verification and statistics that there is no better way to reduce crime.

Child Safety

No:
Your policy is risky!
Reconsider!

Yes:
Have you considered a less restrictive way to protect children?

Yes:
Document fully with third-party verification and statistics that there is no better way to ensure the safety of children.

Remember!

- 1.** Courts most often find that curfew and supervision requirements for children are not justified because they are not the least restrictive means of accomplishing the property owner's goals.
- 2.** Research indicates that curfews are not effective in either reducing crime or preventing harm to young people.
- 3.** Government curfews (imposed by your city or county, for example) usually do not apply to private property such as your apartment community. Check your local laws before imposing curfews on any residents—adults or children.

This chart is not legal advice, but is intended to aid apartment owners and operators in evaluating their familial status and occupancy policies. Always consult with legal counsel to confirm that your policies are within the law.

Thank you to Nadeen Green, Senior Counsel at ForRent.com, for creating this chart.

Familial Status and Occupancy: What You Need to Know

Apartment occupancy policies cannot directly or indirectly impact residents with children. Nor should they be unreasonably restrictive concerning the number of occupants.

Unless your community is a bona fide senior housing community that does not have children as residents, follow the information below.

Do you accept at least two people per bedroom (including SRO housing)?

No:
Your occupancy standard could be an issue unless local law dictates otherwise. Contact an attorney immediately and review your policy.

Yes:
Your occupancy standard is probably okay. BUT there is more to consider! While the two-people-per-bedroom standard may be reasonable, that may not always be the case. The unique factors of the unit matter, including:

Yes No

Are the bedrooms larger than average?

Yes No

In addition to bedrooms, are there other spaces that could reasonably be used for sleeping?

Yes No

Is the square footage significantly more than average?

Yes No

Does the apartment's configuration lend itself to a more generous occupancy standard?

Note: Courts will look at the total circumstances. You must also consider requests for reasonable accommodations. A young couple with an infant child exceeds the standard for a one-bedroom unit, but the couple should probably be allowed to occupy the space as a family.

**If you answered YES to one or more of the above—
You should consider a more generous occupancy standard such as:**

- Allowing at least one more person to occupy the apartment (two people of any age per bedroom plus one additional person of any age)
- Excluding a child/children under the age of 6 from the two-people-per-bedroom tally

Remember!

- 1.** If you provide public housing, you must comply with HUD's Public Housing Handbook Occupancy Standards (Chapter 3-23).
- 2.** Always know state or local laws concerning occupancy standards.
- 3.** Occupancy standards have nothing to do with gender or sleeping arrangements of your residents, no matter their age!
- 4.** State and local laws also impact your occupancy standards. Always know them.

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Familial Status and Swimming Pool Rules: What You Need to Know

Swimming pool rules that don't provide equal access to families with children are risky.

Do you have a swimming pool at your community?

Do you have an age requirement for children to be in or at your pool (or pool area) without an adult?

No:

Skip this section, but read on below—just in case.

Yes:

Is that age requirement based on a state or local law or ordinance for pools such as yours?

No:

This could be a problem! Consider a policy that requires ages 14 and under to be accompanied by an adult or verified competent swimmer.

Yes:

Then that is probably okay.

Do you require children to be supervised by a parent or guardian while at your pool?

No:

Skip this section, but read on below – just in case.

Yes:

You're all wet! Appropriate supervision can be by any adult or verified competent swimmer.

Do you have certain times that your swimming pool is off-limits to children?

No:

Skip this section, but read on below – just in case.

Yes:

You're all wet! Adult swim is not an option!

Do you have certain events at your swimming pool that preclude children from participating?



No:

Skip this section, but read on below—just in case.



Yes:

You're all wet! Occasional lap swims or a volleyball game are likely fine, but if children have the skill set to participate, they get to do just that at any time during any event.



Do you have rules dictating the acceptable behaviors at your swimming pool?



No:

You should! Consider setting these rules.



Yes:

Good idea! Just be sure that these rules apply to everyone and are enforced consistently to everyone—no matter their age.

Remember!

There are two goals for swimming pools —
maintaining safety (for everyone)
and requiring appropriate behavior (of everyone)
at your pool.

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Familial Status and Amenities: What You Need to Know

Rules that target children or that prohibit them from participating fully in the amenities offered to your residents are risky.

Unless your community is a bona fide senior housing community with no children as residents, follow the information below.



Do not establish age-based rules.
Instead, create behavior-based rules.

If you have a business center:

- No one should access inappropriate content on the computers
- No one should be disruptive
- Everyone should use the equipment appropriately and for its intended use.

If you have a laundry facility:

- Require that everyone use the laundry equipment for its intended purpose
- No one should otherwise loiter in the laundry area.

If you have a fitness center:

- Check the manufacturer's guidelines for age restrictions requiring adult supervision or for using gym/spa equipment.
- Don't tell residents that their children are not allowed
- It is likely okay to require supervision of children by a competent adult (not limited to a parent or guardian)
- If the manufacturer suggests that older people not use certain equipment, make that part of your rule
- If the manufacturer does not address age, a good rule of thumb is between ages 12-16, depending on the type of equipment and the dangers involved.

If you have a movie theater:

Skip the R and X rated films and let parents decide what movies their children can see (with or without supervision).

Everyone is welcome at a screening and everyone must abide by whatever rules you wish to set.
(Cell phones on? Cell phones off? Talking? Food?)

If you have a coffee bar:

Everyone can have coffee or nibble on biscotti.

Set whatever limits for everyone on consumption, time limits for hanging out around the coffee pot, and the behavior you wish to discourage.

If you have a community room or game room:

All residents are welcome at all times. Establish your rules for everyone.

Remember!

- 1.** You are not the parent! Let parents decide what is best for their children.
- 2.** It's about behavior. Go ahead and make your rules; just make them for everyone.
- 3.** If any residents (adults or children) break your rules, it is an owner/resident issue that you can address. It's not about who is acting badly, it's about the bad behavior.
- 4.** Leaseholders, residents, adults, children, guests . . . everyone must obey you. Just recognize that a broken rule (or broken window) is just as broken, no matter who does the breaking. And apply that concept consistently.

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