

Fair Housing Tip of the Month – March 2022

Fair Housing Protections for Tenants with Disabilities Threatened with Eviction from Transitional Housing Programs

***Tenant:** “I have mental health disabilities, and I’m living in transitional housing in Los Angeles. It is a sober living program, so we’re not allowed to have alcohol on the premises, and there are many other requirements, like doing chores and going to group-share sessions. When I moved in about a year ago, I signed an agreement to follow the program rules. This past month, the house manager has been telling me that my “time is up” and I have to move out by the end of the month. The manager says this housing is just supposed to be temporary and I’ve been here too long. I think the manager just doesn’t like me because I have been frequently reporting my new roommate’s abusive behavior. I don’t think I’ve done anything wrong, especially since my roommate’s behavior exacerbates my anxiety and PTSD, but management doesn’t like it when I file reports. I don’t love it here, but I don’t know where else to go. I understand that this is transitional housing and I agreed to the program rules, but shouldn’t I have the same rights as any other tenant since I’ve been paying rent here for a year? If I have to leave by the end of the month, I’ll likely become homeless. Can they really just tell me I have to move out?”*

The law says: No! First, federal and California fair housing laws protect occupants in both transitional and permanent housing from disability-based discrimination. People with disabilities, including mental health disabilities, are entitled to equal access to housing, which includes the right to request a “reasonable accommodation,” which is a change or exception to a rule, policy, practice or service. Reasonable accommodation requests must be granted as long as they are in fact “reasonable” and necessary due to the requestor’s disability. An accommodation is reasonable if it does not impose an undue burden on the landlord or fundamentally alter their rental business, and does not pose a direct threat to people or property. In your situation, you could make a reasonable accommodation request to switch rooms in order to avoid interacting with the roommate who exacerbates the symptoms of your disabilities. If an alternate room is available (or will be available soon) such a request would likely be reasonable, and the provider would be required to grant it instead of moving to evict you. Denying a requested reasonable accommodation that could resolve the problem, and instead moving ahead with eviction, would likely constitute unlawful disability discrimination.

Second, terminating your housing would require the provider to go through a lawful court process. In California, eviction protections apply to all tenants, including those in transitional housing programs and sober living facilities. Tenants cannot be forced to vacate their dwellings without a valid court order. The notion that transitional housing providers are exempt from eviction laws is a common misconception.

Once you establish tenancy, you are protected by eviction laws. Tenancy is often formalized in a written lease or rental agreement, but it can be established without a written agreement as well. There is no single definition for tenancy in California. Multiple factors, such as paying rent or receiving mail, can show that an occupant is a tenant. However, neither of these factors is a requirement. In most cases, tenancy is established once a person occupies a dwelling for 30 days.



A landlord cannot order or execute your removal from your dwelling. When landlords attempt to do so, it is called a “self-help eviction,” and it is illegal. Only a judge can order your eviction, and only the Sheriff’s Department can execute it.

What to do: First, let’s be clear about what *not* to do. Unless you have somewhere else to go and want to move out, do not move out just because your landlord or program manager says you have to. If you vacate your dwelling, you may have difficulty locating replacement housing and you may become homeless.

Instead, if you are verbally threatened with eviction for issues that are related to your disability, make a written request for a reasonable accommodation that would address those issues. If your landlord denies your request and refuses to engage in an interactive process, you can file a complaint with a local fair housing agency, the California Department of Fair Employment and Housing (DFEH), or the U.S. Department of Housing and Urban Development (HUD).

Remember that you may have established tenancy even though you are living in transitional housing. Insist that the landlord respect your tenancy rights – specifically, your right to remain in your home unless the housing provider obtains a valid court order to evict you. If the housing provider refuses to respect your tenancy rights, provides you with a written eviction notice, and/or serves you with an eviction or other lawsuit, immediately contact a legal aid organization or a private attorney in your area for legal assistance.

If someone other than the Sheriff’s Department tries to force you to leave your home, explain that what they are attempting to do is an unlawful self-help eviction, which can lead to significant civil and criminal penalties. If a landlord or program manager tries to physically remove you or lock you out of your dwelling, you should call the police.

To file a complaint with HUD, call 800-669-9777, or visit www.hud.gov/program_offices/fair_housing_equal_opp/complaint-process

To file a complaint with DFEH, call 800-884-1684, or visit www.dfeh.ca.gov/complaint-process/file-a-complaint/

Fair housing laws prohibit discrimination in housing based on the following characteristics: race, religion, national origin, color, sex, familial status, disability, marital status,* ancestry,* sexual orientation,* gender identity,* gender expression,* genetic information,* and source of income.*

*Covered under California law, but not federal law. (For most housing, California laws also prohibit discrimination on the basis of citizenship, immigration status and primary language.)

Disclaimer: The Fair Housing Tip of the Month is for educational purposes only and does not constitute legal advice. If you have a legal question, please contact MHAS, your local fair housing council or another attorney of your choice.

The Fair Housing Tip of the Month campaign is based on work supported by the Department of Housing and Urban Development (HUD) under FHIP Grant #FEOI20029. Any opinion, findings, and conclusions or recommendations expressed in this material are those of the author(s) and do not necessarily reflect the views of HUD.