

Threatened Eviction of a Family Based on a Child's Disability-Related Behavior during Remote Learning

Tenant: “I live in an apartment in Los Angeles, and I am the parent of a bright and energetic young child. My child also has a mental health disability that results in behaviors that can be loud and disruptive at times. Because of COVID-19, my child has been learning from home instead of attending school in person, so we don't have access to the resources that usually help with controlling emotions and managing schoolwork. I'm doing my best, but I can't always control the volume of my child's outbursts. Recently, my landlord told me that a neighbor had complained about my child being too loud. My landlord said that if I can't reduce the noise, we could be evicted for causing a nuisance. I suspect that the complaint was made by a neighbor who has made negative comments about my child's behavior and disability to me in the past. I'm scared that we will be kicked out with nowhere to go in the middle of the pandemic. Is it legal for the landlord to evict us because of my child's disability-related behaviors? What can I do if my neighbor continues to complain?”

The Law Says: Under both federal and state fair housing laws, landlords are forbidden from discriminating against tenants based on disability. Since your child's disability contributes to their behaviors, evicting your family based on these behaviors could be unlawful disability discrimination. Landlords are required to make changes in their rules or policies, called “reasonable accommodations,” so that people with disabilities can have equal access to housing. Once a landlord receives a request for a reasonable accommodation, they must grant the request unless it would cause an undue administrative or financial burden or would fundamentally alter the landlord's business. If the landlord can't grant your request, they must engage in an interactive process to work with you to find a solution that accommodates your child's disability-related needs.

Additionally, fair housing laws prohibit landlords from discriminating against tenants based on familial status, which includes families with children under 18 years old. Noise restrictions that specifically target children are forbidden by fair housing laws. In other words, children must be allowed to be children. Furthermore, fair housing laws prohibit landlords from requiring families with children to live in first-floor units, charging them higher rent or security deposits, or preventing children from using common areas. The fact that your landlord specifically mentioned that you could be evicted due to your child's noise level may be discrimination based on your familial status in violation of fair housing laws.

Your neighbor's comments about your child could also be considered harassment based on your child's mental health disability. If the landlord is aware of this harassment, they have an obligation under federal and state fair housing laws to intervene if they have the power to stop it.

You also might be protected from eviction by emergency eviction protections that are in place in your city or county due to COVID-19. For example, both [Los Angeles County](#) and the [City of Los Angeles](#) have emergency protections in place restricting evictions based on nuisance. In the County of Los Angeles, landlords are not allowed to evict tenants for nuisance based on noise caused by occupants who are present because of COVID-19. Since your child is now at home more due to COVID-19, you may be protected by this ordinance, especially if the neighbor or landlord is complaining about noise your child makes during times they would normally be in school, or if you didn't receive these complaints before schools switched to remote learning. Similarly, the protections in the City of Los Angeles prohibit evictions based on nuisance "related to COVID-19." Given your circumstances, you should be protected by this ordinance if you live in the City of Los Angeles.

What to Do: First, make a written reasonable accommodation request to your landlord. Tell the landlord that the alleged nuisance is related to your child's disability, and ask the landlord to stop threatening to evict you. If your building has a general policy about quiet hours or noise levels that your child isn't able to comply with due to their disability, you could ask your landlord to exempt you from that policy during this period of remote learning. Tell the landlord that continuing threats of eviction would be illegal discrimination based on disability and familial status.

You should also tell the landlord that your neighbor is harassing you based on your familial status and your child's disability, and request that the landlord intervene to stop the harassment. If you are protected by a local emergency ordinance, inform your landlord of that as well.

Your request can be verbal, but it's best to make requests in writing, such as via email, text, or written letter, and to use the words "reasonable accommodation" if possible. Keeping a record of texts, emails, or letters will help you back up your claims if you need to file a complaint or get help from an attorney.

If your landlord denies your request or refuses to engage in the interactive process, you can file a complaint with a local fair housing organization, the California Department of Fair Employment and Housing (DFEH) or the U.S. Department of Housing and Urban Development (HUD). If you are protected by a local emergency ordinance, you can contact your city attorney or county counsel to enforce those protections and stop harassment by your landlord. You can also contact a legal aid organization or private attorney to help you enforce your rights, or to find out what your local eviction protections might be.

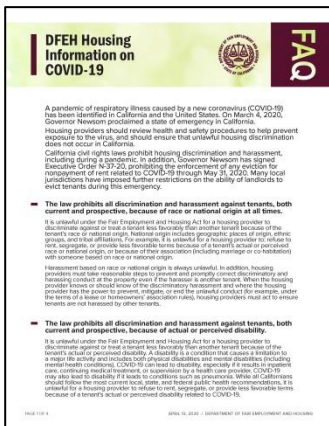
To file a complaint with HUD, call 800-669-9777, or visit www.hud.gov/program_offices/fair_housing_equal_opp/complaint-process

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.)



Housing Information on COVID-19 from the California Department of Fair Employment and Housing (DFEH)

On April 13, 2020, the California Department of Fair Employment and Housing published [these FAQs](#) about housing discrimination during COVID-19.

For more information, contact:

Mental Health Advocacy Services
3255 Wilshire Blvd., Suite 902, Los Angeles, CA 90010
(213) 389-2077

For California Relay Service TTY: (800) 735-2929

www.mhas-la.org

Mental Health Advocacy Services is a nonprofit organization protecting and advancing the legal rights of people with mental disabilities.

Disclaimer: This publication is for educational purposes only and does not constitute legal advice. If you have a legal question, please contact Mental Health Advocacy Services, your local fair housing organization, or another attorney of your choice.

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