

Housing Preservation Strategies

A Supplement to Youth Law Center's Presentation: Housing & Homelessness Prevention for Transition Aged Foster and Former Foster Youth (Slide 14)

Homelessness both during extended foster care and after leaving extended foster care are critical issues facing transition-aged youth (TAY), and despite broad protections and housing/placement entitlements for youth, many youth are involuntarily exited¹ from transitional housing before reaching the maximum age or duration for participation in these programs.

This resource provides a broad overview of various housing preservation strategies for youth in the Transitional Housing Placement Program for Nonminor Dependents (THP-NMD) and the Transitional Housing Placement Program Plus (THP-Plus). Throughout this resource, keep in mind that an “involuntary exit” can encompass the loss of two distinct but overlapping components THP-NMD and THP-Plus: (1) the THP-NMD or THP-Plus program (i.e. the supportive services and funding), and (2) the youth’s possession of the housing unit that was secured by, but may not be owned by, the THP-NMD or THP-Plus agency. **The loss of one component may not automatically result in the loss of the other.** It is important for advocates to discern which component of the program is at issue (supportive services/funding, housing, or both), utilize the appropriate advocacy strategies briefly discussed below, and work with the youth to understand the risks and responsibilities associated with each strategy.²

Please contact the Youth Law Center at info@ylc.org for technical assistance regarding any of these strategies.

Strategies Unique to THP-NMD

Bring the issue to the attention of the juvenile court

THP-NMD participants are foster youth under the jurisdiction of the juvenile court (either the dependency or delinquency court, depending on whether the foster youth is supervised by the child welfare system or a juvenile probation department) and that court can make any and all reasonable orders in the best interest of the child or youth, including placement.³ The court also has authority to “join” certain public and private agencies (like THP-NMD providers) to the juvenile court case to ensure that they fulfill their legal duties to a youth.⁴

Contact or file a complaint with the Office of the Foster Care Ombudsperson

The Foster Youth Bill of Rights⁵ applies to all minors and nonminors in foster care, including those supervised by juvenile probation. If any of these rights have been violated, a youth may contact or file a complaint with the Office of the Foster Care Ombudsperson.⁶ The

¹ This resource uses the term “involuntary exit” broadly to mean any exit from the transitional housing program or housing that is not initiated by the youth.

² For more about housing preservation strategies for TAY in THP-NMD and THP-Plus see Youth Law Center’s Advocacy Guides: [THP-NMD: An Advocacy Guide to Preventing Involuntary Exits](#) and [Preventing Involuntary Exits from THP-Plus: An Advocacy Guide](#).

³ Cal. Welf. & Inst. Code §§ 362(a), 727(a), 361.2(e), 727(a)(3).

⁴ Cal. Welf. & Inst. Code § 362(b), 727(b); Cal. Rules of Court, rule 5.575.

⁵ Cal. Welf. & Inst. Code § 16001.9(a).

⁶ Complaints can be filed here: <https://fosteryouthhelp.ca.gov/file-a-complaint/>.

Ombudsperson provides a neutral and independent office that helps solve problems and complaints about the care, placement, and services of foster youth.⁷

File a Community Care Licensing Complaint with the CCL Division of CDSS

Anyone can file a licensing complaint with the California Department of Social Services' Community Care Licensing (CCL) Division if a THP-NMD agency has violated the state laws and regulations that govern it. To make a complaint, contact the appropriate Children's Residential Regional Office⁸ based on the county where the THP-NMD program is located. You can also file a complaint on the CCL website.⁹ This is a really important and low-barrier tool for advocates - the more complaints CCL receives about a program or site the more likely they are to intervene.

Strategies Unique to THP-Plus

Grievance Procedure

THP-Plus participants are entitled to a grievance procedure to challenge a program policy or practice, including a THP-Plus agency decision to exit a youth from the program.¹⁰ County contracts and certification standards may require THP-Plus grievance procedures to meet certain requirements, or county agencies that administer THP-Plus may offer an additional grievance procedure once youth have exhausted the THP-Plus agency's internal grievance procedure.

Strategies that Apply to Both THP-NMD and THP-Plus

Request a State Fair Hearing

Because THP-NMD and THP-Plus are both public social services programs funded and supervised by the California Department of Social Services and administered by the counties¹¹, youth are entitled to a written notice of termination of the THP-NMD or THP-Plus benefit and a right to appeal that termination through a state fair hearing with an ALJ.

State and Local Landlord-Tenant Law

THP-NMD

California landlord-tenant law is broad and includes protections for all persons who "hire" a

⁷ Cal. Welf. & Inst. Code §16160 *et. seq.*

⁸ The Children's Residential Regional Office Roster can be found here:
<https://www.cdss.ca.gov/Portals/9/CCL/ChildrensResidentialDirectory.pdf>.

⁹ Complaints can be filed here: <https://complaints.cclcd.dss.ca.gov/>.

¹⁰ Cal. Dept. of Social Services, Manual of Policies and Procedures § 30-920.1(l), available here:
<https://www.cdss.ca.gov/ord/entres/getinfo/pdf/ssman4.pdf>.

¹¹ See Cal. Dept. of Social Services, Manual of Policies and Procedures 22-001(a)(3)(A), containing a list of public social services programs subject to a state hearing, available here:
<https://www.cdss.ca.gov/ord/entres/getinfo/pdf/4cfcman.pdf>.

“dwelling” unit, with very limited exceptions (e.g. brief hotel occupancy),¹² and nothing in California law explicitly prevents establishing a landlord-tenant relationship in a Transitional Housing Program.¹³ Therefore, in certain circumstances, nonminor dependents in THP-NMD *may* have strong tenancy rights that would require THP-NMD agencies to pursue a formal eviction in state court to remove the nonminor dependent from the housing unit. This is still an open question, and it is not explicitly addressed in any current case law (as of March 2023).

However, if the nonminor signed a lease with the landlord, they are a tenant. Additionally, a THP-NMD provider may cosign a lease with a nonminor dependent, but a nonminor shall not be the only one to sign a lease or rental agreement.¹⁴

THP-Plus

By contrast, state law classifies THP-Plus participants as tenants and requires THP-Plus agencies to follow state landlord-tenant law.¹⁵

Federal and State Fair Housing Laws and Reasonable Accommodation Requirements

As broadly as landlord-tenant law applies in California, federal and state fair housing laws are even broader. The Federal FHA, California’s FEHA, the Unruh Act, and California Government Code Section 11135 prevent discrimination in housing, including most forms of THP-NMD and THP-Plus housing.¹⁶ Youth and their advocates can make a complaint with the California Civil Rights Department at any time if the youth experiences discrimination in their THP-NMD or THP-Plus program.¹⁷

Additionally, a youth with a disability may be entitled to a reasonable accommodation at any time during their participation in THP-NMD or THP-Plus, including upon admission or when facing an exit. It may be appropriate to request a reasonable accommodation when an involuntary exit is based on a failure to comply with a condition of eligibility for the transitional housing program such as the pursuit of education or employment, and the youth is unable to comply because of a disability.

¹² Cal. Civ. Code § 1940; Cal. Code. Civ. Proc. § 1161 (a person subject to an unlawful detainer proceeding [eviction] includes “any person who hires real property except those persons whose occupancy is described in subdivision (b) of Section 1940 of the Civil Code”).

¹³ See *Savage v. City of Berkeley*, No. C 05-02378 MHP, 2007 WL 911868, at *5 (N.D. Cal. Mar. 23, 2007) (holding that transitional housing program defendant did not present any arguments to show that participant plaintiff could not claim protections as a tenant, hirer, or lessee under California law.).

¹⁴ Cal. Health & Safety Code § 1559.110(e).

¹⁵ Cal. Dept. of Social Services, Manual of Policies and Procedures §§ 30-918.11(e), 30-920.1(j), (p).

¹⁶ Fair housing law applies to an even broader population than landlord-tenant law. 2 C.C.R. 12005(b)(1) & (o) (applying state fair housing protections to a broad range of dwellings and accommodations, including transitional housing). See also 42 U.S.C. § 3603(a)(1)-(2); 29 U.S.C. § 794 (applicability of federal Fair Housing Act).

¹⁷ Complaints can be filed here: <https://calcivilrights.ca.gov/complaintprocess/>.