

Advocacy Strategies for Preventing Involuntary Exits from THP-NMD Hypotheticals (Slides 45-51 of Webinar)

Group 1: Extended Foster Care Eligibility (David) (Slide 46)

David is 19 years old. When David was 17 years-old, the juvenile court made a foster care placement order, placing David in a group home. David remained in the group home placement until his 18th birthday, but he decided to exit extended foster care shortly after his 18th birthday and his juvenile court case closed. David has been couch-surfing for the last year, and moving between two different counties. David just started a job working with his uncle but has not yet received his first paycheck. His best friend is in THP-NMD housing through extended foster care, and David wants to know if he is eligible for the same housing program.

Questions to Consider:

- Is David eligible for THP-NMD Housing?
- What would he need to do to become eligible and how would you go about it?

Answers: David will need to re-enter extended foster care to be eligible for THP-NMD housing since he is not currently in extended foster care. If David is not willing to re-enter, he will not be eligible for THP-NMD, but would be eligible for THP-Plus (the transitional housing program for former foster youth ages 18-25). However, this is generally not preferable since THP-Plus is time-limited (up to 36 months) and THP-NMD is not. If David is willing to re-enter extended foster care, he should be eligible to re-enter since he was subject to a juvenile court order for foster care placement on his 18th birthday.

David should decide which of the five extended foster care participation requirements (Welf. & Inst. Code Section 11403(b)) he might satisfy and he should contact the county placing agency to complete a Voluntary Re-Entry Agreement (“VRA”) ([SOC 163](#)). When David meets with the county placing agency, he should tell the social worker (or juvenile probation officer if he was a probation-supervised foster youth) that he would like to be placed in THP-NMD Housing. David is entitled to safe and appropriate placement as soon as the VRA is signed (even before his re-entry hearing with the court), so he should request immediate placement when he speaks to the county placing agency.

Someone will complete and file the [JV-466 Petition to Request Return to Juvenile Court Jurisdiction and Foster Care](#) with the juvenile court clerk on David’s behalf. The county placing agency has a legal obligation to complete and file the form, but an advocate or attorney could also complete and file the form to expedite court re-entry. Simultaneously David should complete an application for THP-NMD Housing, or ask the county placing agency to help him complete it as quickly as possible (especially since many THP-NMD agencies have waitlists).

Group 2: State Fair Hearings (Jizel) (Slide 47)

Jizel is 20 years old and living in Independence+ (I+) THP-NMD Housing. She has been in the program for 6 months and is attending her local community college. One day her I+ case

manager contacts Jizel to let her know that she will need to leave the program and her housing by this weekend. Jizel asks the case manager about why she needs to leave the program, and the case manager informs her that the I+ program manager just said it was an “eligibility issue,” but couldn’t provide the case manager or Jizel with any more information. The case manager didn’t mention anything about the program receiving any written notices about eligibility and Jizel also did not receive any written notice.

Questions to Consider:

- What steps could you take to find out more about the “eligibility issue”?
- What steps would you need to take to request a state fair hearing?
- Can Jizel stay in the program and her housing during the state fair hearing process?

Answers: Discuss with Jizel what she knows about the reasons she’s being told she needs to leave the I+ program. If Jizel hasn’t been able to gather much information, join a call with Jizel and the case manager and/or program manager (with Jizel’s permission) to find out more about the “eligibility issue.” Once you confirm with I+ that the “eligibility issue” is about funding, contact the county’s foster care eligibility department to find out whether a written notice of action was issued, and if so, where it was sent and request a copy.

Make a written request to the foster care eligibility worker that the county rescind the notice and continue to issue foster care payments to the THP-NMD agency on Jizel’s behalf. If the county will not immediately rescind the notice and reinstate payments, request a state fair hearing. If no written notice was issued, the payment discontinuance can be considered “constructive notice” since the payment was not issued. Advocate with the THP-NMD agency for Jizel to remain in the program and in her housing during the state fair hearing process by describing the state hearing process and the likelihood of receiving retroactive payments.

Note: the THP-NMD agency would also need to follow the appropriate process to remove Jizel from the THP-NMD *program* (i.e. a written notice sent 7-days prior to discharge that contains the specific reasons in the state regulations why she is being ask to leave the program) and may need to follow landlord-tenant law and formal eviction proceedings to exit the youth from her *housing*.

Group 3: Community Care Licensing Complaints (Esmerelda) (Slide 48)

Esmerelda has lived in Sunflower Housing THP-NMD program for a few months. When she moved into her apartment unit in the fall, she noticed that the oven was not working. She also noticed some black marks in the tub that looked like mold. She notified the THP-NMD’s property manager (PM) in writing about the issues when she first moved in, and they told her they would send a repair person. Esmerelda followed up a few times by both email and phone, but no one ever came to look at the unit. Once winter started, she tried to turn on the heat, but it didn’t work. She also noticed that the black spots in the bathtub were getting worse. She called the PM by phone and left a voicemail message. The PM did not respond. Esmerelda wants to stay in her unit since it is close to her job, but she’s upset that the PM has not fixed the issues and she wants them repaired.

Questions to Consider:

- What actions should Esmerelda and her advocate take before/during/after making a CCL complaint?
- Can Esmerelda stay in the housing unit and program during the investigation?
- What can she do if the THP-NMD program retaliates against her for making a complaint?

Answers: An advocate should begin by trying to resolve the matter informally by phone and in writing with the THP-NMD provider before escalating to a formal process of requesting a meeting and/or filing a licensing complaint. If the THP-NMD provider is willing to resolve the matter informally, get the resolution in writing and set a follow-up date. Throughout the process, collect all of Esmerelda's emails, any notices/contracts/or other documents she's received from the THP-NMD agency, take time stamped photos of the issues, and have her create a log of all of the phone calls she made and messages she left for the property manager regarding the various issues, and any responses that she received. Additionally, review the licensing history of the provider and consider requesting the program statement and county contract as well to see whether they're in violation of their contracts.

If Esmerelda and her advocate file a licensing complaint, include as much evidence as possible and identify a reliable way for Esmerelda to be contacted to be able to speak with the investigator. Esmerelda should be able to stay in her housing unit and program during the investigation, but if she is asked to leave her unit or the THP-NMD program during this time, the advocate may need to engage in alternative strategies simultaneously (ensuring proper procedure is followed for program exits and she should consult with a housing attorney regarding whether she is protected by landlord/tenant law). Additionally, if it seems like Esmerelda is being exited from her housing or the program in retaliation for her licensing complaint, it may be the basis for an additional licensing complaint.

Group 4: Landlord-Tenant Law (Chris) (Part I) (Slide 49)

Chris is a 20-year-old NMD. They live in a THP-NMD apartment about an hour drive away from their school. Their THP-NMD program, Vision Independence (VI), helped them find a one-bedroom apartment and co-signed the lease. VI requires them to meet with their case manager in-person once per week. Chris has a documented sleep disorder, making the hour-long drive hard at night so they frequently stay overnight with a cousin when they finish school after dark for safety. Toward the end of the semester, they spent fewer nights at their apartment and missed several appointments with their case manager. Chris says that they called their case manager to reschedule most, but not all, of the appointments, and that when they called, they explained that they were worried about driving home because of their sleep disorder. After missing four appointments in a row, Chris received a 7-day written notice from VI that explained that they would need to leave their apartment due to persistent violation of VI program rules.

Questions to Consider:

- Is the 7-day written notice sufficient to require Chris to exit their *housing unit*?

- What else would be required to exit them from the housing?
- Are there any other advocacy strategies that you can think of that may help them stay in their housing and the program?

Confirm that Chris received the 7-day notice in writing, and consult with a housing attorney immediately. If they did not receive a written notice, contact the THP-NMD agency to inform them of Chris's right to receive notice in writing, and indicate that no exit can happen until they receive proper written notice. Even if the THP-NMD agency has authority to terminate their participation in the *program*, landlord-tenant protections may apply in Chris's case regarding their possession of the *housing unit*. This is especially true given that they co-signed the lease with VI. If landlord-tenant protections apply, the THP-NMD agency (or landlord with whom they contract) would not be able to remove Chris from their housing without a formal eviction through superior court. Chris may be able to request a reasonable accommodation from the THP-NMD agency given their documented sleep disorder which may also allow them to stay in the program and their housing unit.

Group 5: Reasonable Accommodation Requests (Chris) (Part II) (Slide 50)

Chris has a documented sleep disorder which impacts their ability to drive the one hour to and from their school program and THP-NMD housing unit and in turn, their ability to meet with the case manager as often as directed. They have discussed their sleep disorder with their county placement agency social worker and the sleep disorder has been documented in their TILCP. Chris has also told their THP-NMD case manager about their sleep disorder, but they were told that it was program policy that all weekly meetings be in-person at the THP-NMD agency offices near their housing unit. Chris wants to continue to participate in the VI program and stay in their housing unit, but they do not think that they will be able to meet with their THP-NMD case manager in-person as often as is required.

Questions to Consider:

- What kinds of reasonable accommodations could Chris request?
- If their reasonable accommodation request is denied, what can they do?

Answers: Chris's Transitional Independent Living Case Plan (TILCP) (developed with the county placing agency) and Needs and Services Plan (developed with the THP-NMD agency) may provide helpful examples of what types of reasonable accommodations are needed to ensure Chris's ability to participate in the program and maintain their housing. A possible reasonable accommodation would be for Chris's meetings with their case manager be conducted via telephone or video call, or for Chris's VI case manager to meet them wherever they're at (e.g. at school, or near their cousin's house) so they don't need to drive to the case manager's office. Alternatively, the case manager could help arrange for safe transportation for Chris when they're unable to drive.

Request a reasonable accommodation from the VI program in writing, and if needed, request a meeting with the THP-NMD agency, and include Chris's county placing agency social worker,



832 Folsom Street, Suite 700
San Francisco, CA 94107
Phone: 415-543-3379
Fax: 415-956-9022
www.ylc.org

friends, family, and health personnel (as appropriate). If the request is denied, consider filing a complaint with CRD. The advocate may need to engage in other parallel advocacy strategies to challenge the program and housing exit while simultaneously requesting a reasonable accommodation.