

KNOW YOUR RIGHTS:

Housing Rights for Immigrants

Do housing laws protect me if I am an immigrant?

- Yes, eviction and fair housing laws protect people of all immigration statuses.¹

Is a landlord allowed to ask about my immigration status?

- Most of the time, it is illegal for a landlord to ask you about your immigration status if you are a tenant or are trying to rent a place.²
- A landlord may ask you about your immigration status if they must do so to follow federal law or obey a warrant or other court order.³
- For example, a landlord is allowed to ask for your immigration status if you apply for a federally subsidized apartment that is only available to U.S. citizens and people with specific immigration statuses.

Is my landlord allowed to evict me because of my immigration status?

- Usually, it is illegal for your landlord to evict you because of your immigration status or the immigration status of someone you know.⁴
- If you are an immigrant living in federally subsidized housing that has immigration restrictions, your landlord may be able to evict you because of your immigration status.⁵
 - Learn about affordable housing available to all immigrants with National Housing Law Project and Western Center on Law & Poverty's [California Handbook on Eligibility of Immigrants for Affordable Housing](https://www.nhlp.org/nhlp-publications/california-handbook-on-eligibility-of-immigrants-for-affordable-housing/).⁶

Is my landlord allowed to threaten to tell someone my immigration status to pressure me to move?

- No, it is illegal for your landlord to threaten to tell anyone, including immigration authorities or law enforcement, your immigration status or the status of someone you know to pressure you to move.⁷
- For example, it is illegal for a landlord to tell you that if you don't move out soon, they will tell ICE your mother is undocumented.

¹ 42 U.S.C. § 3602(d), Gov. Code, § 12955, subd. (a); Code Civ. Proc., § 1161.4.

² Civ. Code, § 1940.3, subds. (b)(1).

³ Civ. Code, § 1940.3, subds. (c).

⁴ Code Civ. Proc., § 1161.4, subd. (a).

⁵ 42 U.S.C. § 1436a(d)(5)(A).

⁶ <https://www.nhlp.org/nhlp-publications/california-handbook-on-eligibility-of-immigrants-for-affordable-housing/>

⁷ Civ. Code, § 1940.2, subd. (a)(5).

Is my landlord allowed to tell anyone my immigration status because I asserted my housing rights?

- No, it is illegal for your landlord to tell anyone, including immigration authorities or law enforcement, your immigration status to punish you for asserting (asking for) your housing rights.⁸
- It is also illegal for your landlord to tell immigration authorities, law enforcement or other government agencies the immigration status of someone you know because you asserted your housing rights.⁹
- For example, it is illegal for your landlord to tell your neighbors your immigration status because you asked your landlord to fix your roof.

Is my landlord allowed to tell someone my immigration status to harass or intimidate me?

- No, it is illegal for a landlord to tell anyone your immigration status to intimidate or harass you.¹⁰
- For example, if your landlord tells your neighbor, who hates immigrants, your immigration status to make you feel uncomfortable, that may be illegal harassment by your landlord.

Is a landlord allowed to discriminate against me because of my immigration status?

- Most of the time, it is illegal for a landlord to discriminate against you because of your immigration status.¹¹
- This means a landlord is not allowed to deny you housing or charge you a higher rent because of your immigration status.
- However, some federally subsidized housing providers can deny you housing or rental assistance because of your immigration status.¹²

⁸ Civ. Code, §§ 1940.3, subd. (b)(3), 1940.35, subd. (a), 1942.5, subds. (c), (e).

⁹ Civ. Code, §§ 1940.35, subd. (a), 1942.5, subds. (c), (e).

¹⁰ Civ. Code, § 1940.3, subd. (b)(3).

¹¹ Civ. Code, § 51; Gov. Code, § 12955 subd. (d), *Marina Point, Ltd. v. Wolfson* (1982) 30 Cal.3d 721, 731.

¹² 42 U.S.C. § 1436a, Civ. Code, § 51 subd. (g).

What can I do if my landlord violated my housing rights?

1. **Find legal help.** If your landlord did not follow the law, you may want to assert your legal rights to stop their illegal behavior and possibly make them pay you for the harm they caused.

- Find your local legal aid at www.lawhelpca.org.

You may take the following steps with or without an attorney:

2. **Explain your rights to your landlord.** Write a letter to the landlord asking them to stop violating your rights.
 - If your landlord illegally asks about your immigration status, you can ask them to stop with the template [Demand a Landlord Stop Asking About Immigration Status](#) located below.
 - If your landlord is trying to evict you because of your immigration status, you can ask them to stop with the template [Withdraw Eviction Notice Given Due to Immigration Status](#) located below.
3. **File a complaint with California's Civil Rights Department (CRD).**¹³
 - Learn more about on the complaint process here:
<https://civildrights.ca.gov/complaintprocess/>
4. **File a lawsuit against the landlord for violating your rights.**¹⁴
 - Examples of landlords discriminating against immigrant tenants include, making them pay more for rent because they are an immigrant, or reporting them to immigration authorities to punish them for asserting their housing rights.

¹³ Gov. Code, § 12930 subd. (f)(2).

¹⁴ Civ. Code, § 52, Gov. Code, § 12989.1, Code Civ. Proc., § 1942.5. subd. (h).

What can I do if my landlord files an eviction (unlawful detainer) case against me because of my immigration status?

1. Find legal help

- The eviction process can move very quickly, so find legal help **RIGHT AWAY**. Find your local legal aid organization at <https://www.lawhelpca.org/>.
- You may also find a housing attorney on Tenants Together's directory at <https://www.tenants-together.org/resource-directory>.
- Learn about the eviction process at <https://selfhelp.courts.ca.gov/eviction-tenant/>.

2. Assert (state) your “affirmative eviction defense” in your Answer

- Tenants being evicted because of their immigration status may have an affirmative defense.¹⁵
- An “affirmative defense” is a legal defense that can prevent a landlord from evicting you.
- To get an affirmative defense, you must tell the court you have it.
- Often, a tenant first tells the court about the affirmative defense in their answer to the eviction complaint. You can find the answer form, UD-105 at <https://www.courts.ca.gov/documents/ud105.pdf>.
- If you have documents that support your defense, attach them to your Answer. For example, if you are stating your landlord is evicting you because you are an immigrant, attach any discriminatory texts or emails your landlord sent you.
- If the court agrees you have an affirmative defense, it should rule in your favor and allow you to stay in the unit.

¹⁵ Code Civ. Proc., § 1161.4, subd. (b).

Template Letter:

Demand a Landlord Stop Asking About Immigration Status

Instructions

1. You can download this template in a word document by clicking this [link](#).
2. Fill out the highlighted sections.
3. Date and sign the letter.
4. Attach any supporting documents you might have.
5. Make a copy or take a picture of the letter and attachment for your records.
6. Delete instructions, highlights and brackets i.e. [] before giving your letter to the landlord.
7. Give or send the completed letter and attachment to the landlord.
8. If the landlord does not respond to you, reach out to them.

[Insert: Date]

[Insert Property Manager's or Landlord's name]

[Insert: Property Management's or Landlord's Address]

Re: Violation of rights of **[insert: either "tenants" or "potential tenants"]** in **[insert: housing address]**

Dear **[Insert: Property Manager's or Landlord's name]**:

[Insert: either "I am a tenant living at [insert: your address]" or "I applied for housing at [insert: address] on [insert: date]." On **[insert: date or dates]**, you **[insert: either of the following: "asked about my immigration status" or "asked about the immigration status of another tenant" or "required me to disclose my immigration status or the immigration status of another tenant"]**. As explained below, your actions violated California law and you must stop them immediately.

Under California law, it is usually illegal for landlords to ask about a tenant or prospective tenant's immigration status or make them reveal their immigration status. (Civ. Code, § 1940.3, subd. (b)(1)-(2).) **[Insert: information about what the landlord did, for example: "On [insert: date], you refused to rent to me because I didn't tell you my immigration status." or "On [insert: date], you asked me about my immigration status when I went to pick up the keys to the rental."]** Therefore, because you **[insert: either of the following: "asked about my immigration status" or "asked about the immigration status of another tenant" or**

“required me to disclose my immigration status or the immigration status of another tenant”] you violated California law. If you continue to request this information, I may file a complaint with the California Civil Rights Department or file a civil action for discrimination based on immigration status. (Civ. Code, § 52; Gov. Code, § 12930 subd. (f)(2).).

Thank you for the opportunity to explain my rights under California law.
[OPTIONAL TO INCLUDE: If you continue to act unlawfully, I may be forced to take legal action. To avoid liability, please refrain from engaging in this illegal behavior any further.]

Sincerely,

[Insert: Tenant’s Signature]

[Insert: Tenant’s Name]

Attachments: [list any supporting documents you want to attach.]

Template Letter:

Withdraw Eviction Notice due to Immigration Status

Instructions

1. You can download this template in a word document by clicking this [link](#).
2. Fill out the highlighted sections.
3. Date and sign the letter.
4. Attach any supporting documents you might have.
5. Make a copy or take a picture of the letter and attachment for your records.
6. Delete instructions, highlights and brackets i.e. [] before giving your letter to the landlord.
7. Give or send the completed letter and attachment to the landlord.
8. If the landlord does not respond to you, reach out to them.

[Insert: Date]

[Insert Property Manager's or Landlord's name]

[Insert: Property Management's or Landlord's Address]

Re: Notice to terminate tenancy for tenant residing at **[insert: housing address]**

Dear **[Insert: Property Manager's or Landlord's name]**:

On **[insert: date or dates]**, you served me with a notice to terminate tenancy because of **[insert either of the following: "my immigration status" or "the immigration status of another tenant" or "the immigration status of someone I know"]**. As a tenant in California, I have housing protections regardless of my immigration status. Further, California law makes it unlawful for a landlord to end someone's tenancy because of their immigration status or the immigration status of someone they know. (Code Civ. Proc., § 1161.4.).

If a landlord files an unlawful detainer (eviction) action based on the immigration status of a tenant or someone the tenant knows, the eviction is based on an illegal cause and will not succeed in court. (Code Civ. Proc., § 1161.4, subd. (b).). **[Insert: details about what the landlord did that makes you think they are evicting you based on immigration status. For example: "You told me you do not want an undocumented tenant."]** Therefore, because you served me a notice to terminate tenancy due to **[Insert either of the following: "my immigration status" or "the immigration status of another tenant" or "the**

immigration status of someone I know"], you are in direct violation of California law, will not succeed in court and should immediately rescind the notice.

Because your reason for the notice to terminate tenancy violates California law, the notice is unenforceable to remove me from my home. At this time, I will remain in the unit as your notice to terminate tenancy is unlawful and will not succeed in court. Further, I ask you to formally rescind the notice to terminate tenancy in writing. As mentioned, if you file an unlawful detainer action, you will not succeed in evicting me and I will assert my affirmative defense to the eviction.

Thank you for the opportunity to explain my rights as a tenant with respect to immigration status and for your understanding in this matter.

Sincerely,

[Insert: Tenant's Signature]

[Insert: Tenant's Name here]

Attachments: [list supporting documents you attach such as the notice to terminate tenancy, texts, etc.]