

The Importance of Equitable Policy Enforcement - The Benefit of Smoke-Free Multi-Unit Housing

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Access to safe, affordable, and stable housing is often a key requirement for good physical and mental health. Allowing smoking in shared housing, however, makes safe and stable housing difficult to achieve for all residents. This is particularly true for Latino communities — despite their overwhelmingly positive view on smoke-free policies and strong desire to protect their families and communities from the health impacts of secondhand smoke. While Latino smoking rates vary by nationality, Latino residents have some of the highest secondhand smoke exposure levels in California. This is in part because compared with non-Hispanic whites in California, of whom approximately a third are living in multi-unit housing, almost half of Latinos in California live in multi-unit housing.

Tobacco smoke can easily travel through light fixtures, crawl spaces, and doorways. As a result, even in larger apartment complexes where smoking is not allowed in enclosed common areas, residents are at risk of exposure to secondhand smoke from neighboring units. Latino residents suffer a disproportionate risk of harm due to secondhand smoke exposure, which can lead to poor health, including asthma and other lung problems, particularly among pregnant women and children. For those with chronic diseases such as cancer and heart disease, as well as diabetes — the leading cause of death among Latino Americans — exposure to secondhand smoke can be deadly.

On the other hand, people who suffer from nicotine addiction already experience housing instability due to lower incomes and poorer health. Smoke-free policies that include eviction or steep fines as penalties for smoking violations run the risk of making the lives of these residents more difficult and may endanger their housing. Yet housing instability is also a risk for those exposed to secondhand smoke, who may be forced either to endure the potentially lethal health impacts of secondhand smoke exposure or to seek alternative, safer housing, which may be difficult to find. For these reasons, the health of non-smoking residents and their right to safe, healthy housing can sometimes seem to collide with the right to stable housing for residents who smoke.

Decades of research have proven the harmful impact of smoking and secondhand smoke exposure and studies have found that eliminating smoking in housing can lead to improved health outcomes for residents. As with many policies, however, smoke-free multi-unit housing policies need to be developed, implemented, and enforced in ways that are just and equitable for all residents.

Equitable Enforcement Principles

Some smoke-free multi-unit housing policies include the possibility of eviction as a penalty or remedy for repeat violations. But eviction can lead to worse health outcomes and can worsen existing economic and health disparities. Also, knowing that a neighbor who smokes could be evicted might discourage residents from reporting smoking policy violations when they occur.

For that reason, the implementation of any smoke-free multi-unit housing policy should begin before the policy is adopted, with community education and buy-in. Smoke-free policies should include provisions that require education and provide cessation support to anyone who fails to comply with the policy. Only after continued, repeated noncompliance should enforcement measures become stricter while remaining equitable. Both voluntary site-specific policies and community-wide public policies can engage social workers, tobacco dependency treatment experts, or trained community members to help encourage compliance and enforce policies, rather than law enforcement.

This document provides compliance-focused enforcement options as alternatives to eviction for both voluntary/property-specific and community-wide public smoke-free multi-unit housing policies. Eviction should always be discouraged. Still, every landlord, property manager, or homeowners' association will have to determine for itself whether terminating a lease is a potential recourse under certain limited circumstances.

Principle 1: Building Community Support through Education

At their core, all smoke-free policies are about changing norms and encouraging voluntary compliance. This means education and community buy-in are crucial in any successful policy. Fortunately, research shows that Latino residents overwhelmingly support smoke-free multi-unit housing policies. Studies also show that most people who smoke want to quit, but often lack the information or resources they need to accomplish it. Ongoing education and storytelling can be particularly useful tools—residents can share their stories of living in a smoke-free building through videos and posters to encourage and support residents.

Educating the community should also involve staff training, a clear timeline for implementation, presentations for residents, cessation materials and support, and signage. In communities with Spanish-speaking residents, ensuring these resources are available in Spanish and communicated in culturally appropriate ways can provide all residents with an understanding of why the policy exists and who it benefits. Public policies can help facilitate these efforts by providing free resources to property owners and managers to build community support.

Principle 2: Compliance-focused Enforcement that Avoids Law Enforcement

Voluntary smoke-free multi-unit housing policies are enforced by property owners or designated residents, rather than by law enforcement or code enforcement officials. Similarly, community-wide public policies can include graduated enforcement mechanisms that do not rely on law enforcement officers. The following methods can be useful ways of communicating the policy provisions while providing education and cessation support.

Informal Conference

One way to address a resident's failure to comply with a smoke-free policy could be an informal meeting or conference to ensure that the resident clearly understands the policy and its benefits. An informal conference might include a designated neighbor, property manager, or landlord who could meet with the resident and provide educational materials, including information about the policy, the health impacts of smoking, secondhand smoke, strategies to smoke outside, and information about how and

where to find support to quit smoking. Residents in public housing already have the right to an informal grievance process if they don't comply with a smoking restriction, and community-wide public policies might provide for a similar meeting that could involve social workers, community health workers, experts in cessation support, or other trained personnel. Because residents need to understand what is being asked of them, meetings and materials must be conducted and presented in the resident's preferred language.

Written Notice

If, after an informal conference, a resident fails to comply with the policy, the next step can be a formal, written warning. A specific, written explanation of how the policy is being violated can be an effective way of demonstrating the severity of the concerns, even when lease termination is not a potential last resort. A written notice can also explain how others in the building are being impacted (e.g., are there children in the building?) and where smoking is allowed (e.g., a certain number of feet away from the building or in a designated smoking area). The notice could also explain the availability of any accommodation (e.g., moving to a lower floor for limited mobility tenants who need to get outside). As with any other attempts at intervention, the notice should be communicated in the preferred language of the resident and accompanied with information about free, culturally appropriate cessation services and support. Residents might also be asked to acknowledge in writing their understanding of the policy to ensure that they are clear about the policy's requirements.

The New York City Housing Authority (NYCHA) provides a good example of a smoke-free policy adoption process begun by engaging staff, residents, city agencies, experts in smoking cessation, and others in building community support. They released materials in multiple languages and hired a team of six Smoke-Free NYCHA Liaisons — four of whom are NYCHA residents — to serve as community health workers that answer questions about the policy, coach residents who want to quit or reduce tobacco use and provide relevant resources.

NYCHA has a graduated enforcement policy that starts with an informal meeting process. The first violation occurs if a NYCHA employee observes a household resident, guest, or other visitor smoking, or sees evidence of tobacco use. A first violation can also occur after the housing authority receives three complaints against a resident from other residents or visitors. After either of those incidents, the property manager conducts an informal conference with the resident and provides educational materials, including information about health impacts of smoking, secondhand smoke, strategies to smoke outside, and information about how to quit smoking. During the meeting, the resident is asked to agree in writing to comply with the policy and to acknowledge that more violations may lead to harsher penalties. If the resident does not violate the policy again for one year, any more violations are treated as a first violation. (In this example, the commencement of eviction proceedings is a possible penalty, although this is discouraged and should only be used as a last resort.)

<https://publichealthlawcenter.org/sites/default/files/resources/SF-MUH-Equitable-Enforcement.pdf>