



**‘Questions and Answers from
Webinar: *Know Your Rights: Housing and Other Forms of
Discrimination Against People with Alcohol/Drug Histories***

NOTE: We answered a substantial number of the questions received; however, we did not answer questions that did not directly relate to the topics of the webinar series. We also did not answer questions that were unclear – which can easily happen in a webinar because the presenter does not know at what point the question was asked. We apologize, but hope that the many questions we did answer will be helpful.

Questions regarding people who “currently engage in the illegal use of drugs”

Q: How can people with current drug problems be encouraged to seek treatment without fearing the loss of a job or housing? What can they do?

A: It is very difficult for people who have a current drug problem to seek help without fear of losing their job or home, should the employer or landlord learn that they are in treatment. Nevertheless, many employers have policies permitting people to take leaves of absence for treatment and have employee assistance programs that can help. The best thing to do is to find out what your employer’s policies are *before* you disclose your need for drug treatment. With respect to landlords, if you are in treatment or have a drug problem and need treatment, it may be best not to tell your landlord.

Q: If you got treatment through an employer’s Employee Assistance Program (EAP), can you still be fired because of your drug problem?

A: You wouldn’t be protected by Federal anti-discrimination laws in this instance, but if your employer has an EAP, there’s a good chance that your employer also does not fire people merely for seeking out and participating in drug treatment. It’s important to find out what your employer’s policies are before you disclose your need for treatment.

Q: Is there any protection for an active user that needs assistance at the local emergency room? For instance, what if someone goes to the emergency room for a Staph infection and then is not given antibiotics because of his drug use?

A: Even though current illegal users of drugs generally are not protected from discrimination, they *are* protected from discrimination in the receipt of health care. Therefore, it would be discriminatory to refuse a particular form of treatment to someone solely because that person is an illegal user of drugs unless there was a medical rationale underlying that decision (e.g., potential drug interaction).

Q: What if the health care is being provided in a homeless shelter? Is it illegal to discriminate on the basis of someone's current illegal use of drugs?

A: Yes, it is illegal. See the prior question and answer.

Q: How do the laws prohibiting discrimination by places of public accommodation apply to the treatment of pregnant women, specifically OB/GYN and pre-natal care?

A: For the same reasons discussed in the prior two questions and answers, it would be illegal discrimination to deny OB/GYN services or pre-natal care to a woman because of her current drug problem.

Questions regarding the student loan suspension for people with some drug felony convictions

Q: Is DUI considered a drug-related felony [for the student loan suspension]?

A: The suspension of federal financial assistance only applies to individuals who are convicted of possession or sale of a controlled substance while receiving federal financial aid. If you are convicted of driving under the influence while you are receiving federal financial assistance, you are *not* subject to the suspension.

Q: If a person has a felony drug-related conviction, has served his prison sentence and completed treatment and now is in the community, is the individual now eligible for a federal student loan?

A: Yes. The suspension of student loans *only* applies if you are convicted of sale or possession of a controlled substance while you were receiving federal financial assistance. If you first apply for a federal aid *after* your conviction, you are not barred. Or, if you are convicted while you are receiving federal aid, but you then complete a treatment program that meets the requirements of the regulations, you regain your eligibility.

Questions regarding zoning discrimination

Q: Would it violate federal anti-discrimination laws for a town to zone out ALL social service agencies - not just alcohol/drug programs?

A: That depends. If the intent of the law was to exclude one or more particular groups such as people with HIV/AIDS, addiction histories, or another disability, then it would violate anti-discrimination laws. The zoning law also could violate anti-discrimination laws if it has a disproportionate impact on people with disabilities, even if that was not the intent in passing the law.

Q: Is a zoning regulation discriminatory if the intent of those who passed it is discriminatory although the law does not expressly mention any group with a disability?

A: Generally, yes. For example, you can imagine that in response to a public uproar about a neighborhood having too many group homes for people with disabilities, the zoning board passed a law prohibiting more than four unrelated adults from living together. Even though the law itself mentions nothing about people with disabilities, it would be discriminatory because of the discriminatory intent behind it. The zoning law also would be discriminatory if its “effect” was to disproportionately affect group homes serving people with disabilities, even if the lawmakers had no discriminatory intent.

Questions regarding housing discrimination

Q: If someone has bad credit as a result of their disability, how is it legal for landlords to deny them?

A: It is not disability-based discrimination to deny someone housing because of their conduct, even if the conduct results from a disability.

Q: Can a person be denied public housing because of a past felony DWI?

A: It depends on the policy of that particular housing authority. Because your question pertains to discrimination based on a criminal record, you should also watch our webinar, “*Know Your Rights: Legal Rights of People with Criminal Records*,” available on our website.

Q: What effect does a drunk in public charge have on getting housing, private or public? Does this show up in a background check? It doesn't necessarily mean you are an alcoholic.

A: Whether a “drunk in public charge” would show up on a background check depends on your particular state’s laws and whether the “charge” resulted in a conviction. Assuming a private landlord did learn about a public drunkenness charge or conviction, the landlord could use that information to deny you housing. The anti-discrimination laws discussed in this webinar would not protect you because the denial would be based on the behavior and resulting criminal charge or conviction, and not on any disability. The effect of such a charge on public housing depends on the particular housing authority’s policies. For more information about the effect of a criminal record on housing, employment, and other opportunities, watch our webinar, “*Know Your Rights: Legal Rights of People with Criminal Records*,” available on our website.

Miscellaneous questions

Q: Does the immigration status of an individual change any of his rights under these anti-discrimination laws?

A: No. These anti-discrimination laws protect individuals regardless of their immigration status.