

# Legal Assistance for Tenants

Legal assistance for tenants helps renters who are facing eviction, harassment, illegal changes to a lease (such as a rent increase above legal limits) or other situations that might compromise their rights and potentially lead to displacement. An effective program will establish dedicated public funding for legal advice and representation by qualified legal aid groups.

## Legal Context

### What Does State Law Require?

While state law protects some tenants from eviction without legally allowable cause (see the Just Cause Eviction profile for more specific information on tenancies covered by state protections), it does not require that they be provided housing legal assistance.

### How Can Jurisdictions Implement Programs That Go Beyond State Law?

Jurisdictions can implement legal assistance programs to provide support with Section 8/Housing Authority termination hearings, Rent Board matters and general tenants’ rights issues to help tenants avoid eviction and maintain housing stability. Jurisdictions can also enact tenant right to counsel programs, which provide renters access to legal representation in eviction cases, extending the constitutional right to an attorney—generally reserved for criminal procedures—to a civil procedure.

## Program Design, Implementation and Evaluation Considerations

*The callout box below labeled “TOC Policy Requirements” describes the policy features necessary for a jurisdiction to receive credit toward TOC Policy compliance. All other policy features discussed in this document represent details found in existing policies on the subject and a jurisdiction may want to consider them when adopting or implementing a policy, but nothing is required for TOC Policy compliance unless noted as a requirement in the “TOC Policy Requirements” callout box or the [TOC Policy Administrative Guidance](#).*

## At-A-Glance

**RELEVANT STATE LAWS**  
[Tenant Protection Act of 2019](#)

**POTENTIAL FUNDING SOURCES**

- Community Development Block Grant (CDBG) funds
- General Fund
- Housing Trust funds

**COST**  
Low

**ADMINISTRATIVE BURDEN**

 Low

Staff capacity needed to identify funding sources and to develop and oversee the program.


**EXTRA CONSIDERATIONS**

 Highly effective

**WHICH P?**  
Protection

**POTENTIAL PARTNERS**

- Legal Aid Groups
- Tenant Advocacy Organizations

 **OPTION FOR TOC POLICY COMPLIANCE?**  
Yes!

## Elements of the Program

- Defined eligible circumstances for legal assistance (e.g., limited to eviction or other housing legal matters)
- Defined eligibility criteria for who receives assistance (e.g., limited to lower-income tenants)
- Organization or legal services provider to oversee the provision of legal assistance and provide dedicated, ongoing funding at levels needed to support the jurisdiction's vulnerable renter population
- Evaluation of program to determine if funding is sufficient to meet community need
- Outreach to ensure that the community is aware of existing services

## Program Design Considerations

Jurisdictions may want to consider the following:

**DATA COLLECTION:** Examining available displacement-related data to identify areas of highest need and the overall level of need.

**UNMET NEED:** Consulting with local legal service providers about the unmet needs they are seeing to help inform the situations that should be addressed, program eligibility criteria, level of funding and service benchmarks.

**ELIGIBLE LEGAL SITUATIONS:** Depending on the availability of funding, jurisdictions may consider including eviction and pre-eviction legal services for lower-income tenants as eligible situations for legal assistance. Jurisdictions can also consider providing support for other landlord-tenant situations that are a violation of tenants' rights and can lead to displacement (e.g., habitability issues, harassment or discrimination).

Jurisdictions can consider providing support for the following landlord-tenant situations:

- Eviction
- Pre-eviction
- Habitability issues
- Landlord harassment
- Discrimination (e.g., against a resident with a disability)

**ELIGIBLE HOUSEHOLDS:** Establishing income qualifications for legal support, especially if the need is greater than the funding available, or providing assistance to all renters regardless of income.

**FUNDING SOURCES:** Jurisdictions can fund tenant legal assistance with CDBG funds, Housing Trust funds, through fees, special taxes, or through the General Fund. Often legal assistance is funded through multiple sources.

**PILOT PROJECT:** If funding is not available for a permanent program, jurisdictions can consider starting the program as a pilot with a subset population, and later refining and extending the program. For example, New York City began its Right to Counsel program by serving only specific ZIP codes until they had the resources to expand.

**RIGHT TO COUNSEL PROGRAMS:** Tenant Right to Counsel (RTC) guarantees the right for tenants facing eviction to access free legal representation. It is typically passed by voter initiatives, and local governments contract with legal aid organizations to provide legal services. In most cases, a Right to Counsel program would fulfill the TOC requirements under Legal Assistance for Tenants.



**TOC Policy Requirements:** The jurisdiction must have a program with secured funding that provides ongoing allocations to the program at or above the minimum level for their tier. The amount contributed can vary by year as long as the total for the relevant four-year OBAG cycle meets the specified target for the jurisdiction (as outlined in [Appendix B of the Administrative Guidance](#)).

Jurisdictions that have an existing balance in a tenant legal assistance funding program when submitting final documentation for TOC Policy compliance may count existing funds toward the required total so long as funds are available for expenditure during the four-year planning period (anticipated to align with the OBAG cycle).

Jurisdictions that have committed legal assistance funds prior to submitting final documentation for TOC Policy compliance may count expended funds toward the required total so long as at least one of the following conditions is met: a) the funds are used to support a program occurring during the relevant four-year OBAG cycle (e.g., funds are committed to an organization to use for legal assistance services during the OBAG 4 cycle sometime between 2026 and 2030), and/or the funds are expended after January 1, 2025.

A jurisdiction must define the situations in which a tenant receives legal assistance and set the eligibility criteria for who receives assistance. At a minimum, **the program must include eviction and pre-eviction legal services for lower-income tenants.**

A jurisdiction must contract with one or more legal services organizations to provide legal assistance and representation for cases involving eviction and other eligible tenant issues and must make information regarding providers available on its website.

## Program Implementation, Administration and Enforcement

Jurisdictions can pass legislation to provide legal assistance for tenants facing eviction and dedicate public funds for legal assistance. Whenever possible, jurisdictions should provide legal assistance throughout the entire eviction process, from when the three-day notice is received up until court hearings. Even if they don't establish a right to legal counsel, jurisdictions can implement programs that provide legal assistance for other landlord-tenant situations, such as discrimination.

In developing legal assistance programs, jurisdictions will want to assess the legal services environment and capacity in their jurisdiction. They'll also want to assess the need for legal services in the renter population and determine the funds needed to support this population. They'll then want to conduct an RFP process to solicit legal support. They can also fund community-based organizations to provide culturally competent outreach and education to tenants and for referral of specific tenants.

The strongest legal assistance programs include dedicated public funding from legal defense funds, housing affordability trust funds and/or philanthropic sources. Some legal costs can be offset by engaging pro bono representation. In the long term, dedicating these resources to legal assistance may produce significant public savings, by saving the jurisdiction costs related to housing displaced families in the shelter system, the preservation of rent-regulated affordable housing and unsheltered homelessness.

## Program Evaluation

To evaluate program effectiveness, jurisdictions can analyze how many tenants were had legal representation or did not have legal representation, and how this changed with program implementation. Additionally, they can analyze whether outcomes differed depending on whether a client was represented. Finally, jurisdictions can partner with community-based organizations and other housing organizations to conduct qualitative research regarding tenants' awareness of and experience with services.

### STAGES OF EVICTION:

- **NOTICE:** Before a landlord can start an eviction case (unlawful detainer), they must send a notice of termination of tenancy to the tenant. Not all notices result in eviction lawsuits: the tenant may resolve the issue stated in the notice, for example by paying the rent they owe within the specified period (typically three days). Alternatively, the tenant may move out upon receiving an eviction notice, before the matter proceeds to the court process.
- **EVICTION CASE STARTS:** If a tenant remains in the home after the notice deadline expires, the landlord can file an eviction lawsuit with the county Superior Court. Eviction lawsuits are accelerated proceedings that typically move through the court system in a matter of weeks, with a median duration of 6 weeks.
- **TENANT RESPONSE:** Upon receiving formal lawsuit notification, the tenant has ten business days to file an answer. Failure to respond results in a default judgment against them, and they lose the opportunity to contest the eviction.
- **EVICTION TRIAL:** At the trial itself, the judge will hear from both sides and decide if the tenant must move out and if they owe the landlord money.
- **AFTER EVICTION TRIAL:** If the judge makes a judgment that the tenant does need to move out, the tenant can move out or ask the court for more time to move out (called a stay of execution) if they have a good reason for needing more time.

More information on the stages of eviction can be found on the California Courts webpage [The Eviction Process for Tenants](#).

## Other Resources

### EXAMPLES\*

[City and County of San Francisco - Tenant Right to Counsel](#)

### EXAMPLES OF IMPLEMENTATION PARTNERS

[East Bay Community Law Center - Housing Services](#)

[Project Sentinel](#)

[Community Legal Services in East Palo Alto](#)

[Bay Area Legal Aid](#)

### OTHER RESOURCES

[Stay Housed Bay Area](#)

[National Coalition for a Civil Right to Counsel - Resource Guides](#)

[California Courts Free or Low-Cost Legal Help](#)

[Eviction Defense Collaborative - Tenant Right to Counsel](#)

[Metropolitan Transportation Commission - Protection Policy 3: Legal Assistance for Tenants](#)

*\*Note that examples have not been vetted for full TOC Compliance.*

## Complementary Policies

**JUST CAUSE EVICTION:** Enacting ordinances to prevent evictions except under certain, specific circumstances can help reduce the need for legal assistance.

**TENANT ANTI-HARASSMENT PROTECTIONS:** Legal assistance for tenants can help ensure that tenants experiencing harassment are aware of their rights and able to take legal action when these rights are violated.

*This document is intended to provide general information and does not constitute legal advice. Additional facts, facts specific to a particular situation, or future developments may affect the subjects discussed in this document. Seek the advice of your jurisdiction's legal counsel before acting or relying upon this information. For specific questions regarding TOC compliance, please reach out to [TOCpolicy@bayareametro.gov](mailto:TOCpolicy@bayareametro.gov).*