

LAWYER-FOR-A-DAY PROGRAM MANUAL

ACKNOWLEDGMENTS

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	a) Housing Court Department Standing Order 1-01	
	b) LDP Web Listing - 2018 ¹	

¹ This listing represents LDPs as of 2018, before the Metro-South Division started operating. The list of LDPs online will be updated as new programs are established.

I. Introduction

A creature of statute, the Housing Court Department was first established in 1973, with subject matter jurisdiction over “all housing problems...which affect the health, safety and welfare of the occupants or owners thereof...” G.L. c. 185C(3). In 2016 the Massachusetts Legislature and the Governor expanded the Housing Court Department’s geographic jurisdiction, ensuring that housing courts are now available to all residents of the Commonwealth. The successful effort to expand the department followed advocacy by a broad-based and diverse coalition of stakeholders who value the specialized resources and programs offered by housing courts, including in-house mediators through the Housing Specialist Department, mental health services through the Tenancy Preservation Program, and legal assistance through Lawyer for a Day Programs (“LDPs”).

A defining characteristic of the Housing Court Department is that 92% of the tenants and 30% of landlords who appear before the court are self-represented. <https://www.mass.gov/files/documents/2018/10/01/2018%20Housing%20Court%20Self-Represented-Represented%20Litigants%20by%20Court%20Location.pdf>. In response to this challenging reality, in 2001, the Housing Court Department adopted Standing Order 1-01, which provides that LDPs “shall be permitted in any Housing Court” under specified guidelines, including that they “shall be sponsored and administered by a state or local bar association or legal services organization, in conjunction with the Housing Court” and that they “shall provide advice to all pro se litigants in the Housing Court, tenant or landlord, on a first-come, first-served basis.”

In the years since the standing order was adopted, LDPs have developed at many, but not all, housing court sessions. None of the existing LDPs sprang forth in full bloom, with all program elements available at the outset. Many of the LDPs evolved in response to lessons learned over time. In addition, none of the existing LDP’s are identical to one another; each LDP reflects the combination of resources and institutional networks in its locality, and the culture of the legal community in which it operates.

This manual is intended to facilitate the formation of LDPs in each of the housing court sessions, and create a workable standard of excellence for all of the programs. What follows is both a “how to” manual, as well as a set of “best practices” based on a distillation of the learning and experience from existing LDPs. Several guiding principles and caveats inform the substance of this manual.

First, the Housing Court Department’s commitment to LDPs is based on the foundational belief that attorney involvement on both sides of a legal dispute improves the administration of justice and increases the likelihood of a fair and just case outcome.

Second, by design in the Standing Order, and of necessity, LDPs involve collaboration among some combination of housing court judges and clerk's office personnel, legal aid providers, private attorneys, bar associations, law schools, and social service agencies. The manner of creating and sustaining an LDP in each housing court session will depend upon and must take into account the resources that exist in that location. The guidance offered here is just that: guidance; it is not a blueprint for an LDP. Ultimately the housing courts and their partners are encouraged to begin with what is possible, and commit to continuous improvement of their LDPs.

Third, the Standing Order contemplates service for landlords and tenants, and does not establish income eligibility. The Standing Order also authorizes LDPs to be administered by legal services programs, however, which are typically restricted to assisting only income-eligible tenants. Thus, while all LDPs are required to serve all litigants, program partners and individual volunteers are free to set their own guidelines for participation, assuming any limitations are compensated for by other participants in the LDP. In addition, while the Standing Order does not limit service to low income litigants, it should be noted that Rule 6.1 of the Rules of Professional Conduct sets an aspirational standard for pro bono service by the private bar so as to be "for the benefit of persons of limited means." LDP volunteers are well within their rights to consider a given litigant's financial means in determining what service to offer that litigant, e.g. brief counsel, advice, and referral to a lawyer-referral service as opposed to limited or full representation.

Fourth, the best LDPs offer a range of services to litigants, and thereby a range of opportunities to volunteers. The vast majority of landlord-tenant disputes in housing courts resolve in mediation. LDP assistance to litigants in mediation is therefore invaluable, as recognized by the Standing Order. Nevertheless, some cases are litigated to conclusion, which means that effective assistance for some litigants will require limited or full representation in the courtroom. Training volunteers to recognize those cases that should be litigated, and ensuring capacity within the volunteer pool to do so, is therefore essential to maintaining an effective LDP.

Finally, although this manual is the result of a collaborative effort by representatives of the various stakeholder groups referred to above, ultimately it represents a set of practices and standards that are consistent with the Housing Court Department's obligation to maintain impartiality and the appearance thereof. As such, it represents the Housing Court Department's attempt to establish a common denominator for LDPs. The court recognizes that its partners may have additional priorities for LDPs: legal aid programs may prioritize practices that advance claims for tenants; bar associations may prioritize practices that increase the likelihood of engaging pro bono volunteers; law schools may prioritize practices that afford courtroom experience for students. While those priorities are not necessarily fully captured in the materials that follow, their absence does not signify that they are not worthy. To the contrary, the court encourages its partner organizations to build on this work, and develop additional best practices that advance their own laudable goals for LDPs.

II. Administration

This section is intended to identify the elements and factors that should be considered when developing an LDP, and to highlight any best practices that have emerged over time. There are a different ways to administer an LDP, and different approaches are currently in use across the state. Although the guidance offered here reflects the views of a cross-section of individuals currently working with LDPs, ultimately the administration of the LDP must be workable for the local participants.

1) Participants

- a) Identify which organizations will participate in providing the LDP. Partners may include the court, a local or statewide bar association, a legal aid program, a law school, and one or more social service agencies.

Best Practice: To ensure efficient integration into the court session, substantive expertise, effective recruiting, and balanced representation, an LDP should strive to include, at a minimum, the court, local bar association, and legal aid provider.

- b) Identify the role for each participant, including which participant will:

(1) Recruit volunteers

Best Practice: Recruit within the landlord bar and the tenant bar. In court divisions with active bench/bar committees, encourage LDP participation by members of the committee.

(2) Schedule volunteers

(3) Train volunteers

Best Practice: Include tenant lawyers, landlord lawyers, and the court in any training programs.

(4) Provide equipment, e.g., designated photocopy machine and paper supply

(5) Provide forms to facilitate maximizing volunteer efficiency and capacity

(6) Perform day-of triage

(7) Maintain data and metrics

- c) Establish a communication network for participants, to include:
 - (1) Standard emails identifying volunteers for upcoming sessions
 - (2) Regular meetings, including court personnel, to discuss problems or issues of concern
 - (3) Training opportunities
 - (4) Programmatic changes

Best Practice: Ensure regular communication among all the partners. Include the court for feedback while avoiding ex parte communications about pending cases. Encourage open discussion of any perceived problems.

2) Days and Hours of Operation

- a) Establish the schedule for in-court assistance

Best Practice: As the LDP develops over time, strive to cover all summary process sessions, at the court's headquarters as well as outlying sessions, and ensure coverage for both morning and afternoon sessions.

- b) Consider sessions on entry/answer days, to assist litigants in completing forms and provide counsel and advice.

3) Clients and Eligibility

- a) The Housing Court's LDP standing order requires service for landlords and tenants - first come, first served.

Best Practice: Some LDP volunteers may self-restrict to assisting only landlords or only tenants. The LDP administrator should know who those volunteers are, and ensure that another volunteer is available for that session who is not restricted to one litigant group.

- b) The standing order does not include an income-eligibility requirement for access to an LDP.
- c) Rule 6.1 of the Rules of Professional Conduct sets an aspirational standard for pro bono service "for the benefit of persons of limited means."
- d) Most legal aid programs are restricted to assisting income-eligible tenants. Volunteers should be informed of eligibility guidelines/criteria, where applicable.

Best Practice: Any landlord and any tenant should have access to the LDP program, on a first come, first served basis. The nature of the assistance provided, however, may be informed by the volunteer's assessment of the client's ability to hire an attorney, among other considerations. Litigants with the acknowledged ability to hire a private attorney should be referred to bar association lawyer referral resources. LDPs should never refer to specific lawyers.

4) Staff

In addition to volunteers, during the court session the LDP should be staffed by someone to do intake, eligibility screening as appropriate, and basic triage to the appropriate level of service.

Outside of the court session, there should be a staff-person assigned to handle scheduling and other administrative needs.

Best Practice: Each of the partner organizations (e.g. court, bar association, legal aid program) should have a designated point person for the LDP.

Best Practice: The sponsoring organizations(s) should identify a sustainable funding source for the staffing the LDP.

5) Space, Equipment, Forms

a) The LDP should have designated space for intake and consultation. The space should identify entry points for landlords and tenants, and should allow for relatively private consultation with individual clients.

b) The LDP should have access to the following equipment:

- 1) A photocopier/scanner in a secure location;
- 2) Internet access for e-filing and/or electronic service of pleadings
- 3) A public access terminal for MassCourts access

Best Practice: The LDP should have its own equipment and access to MassCourts, so as not to burden court staff for copies, docket information, etc.

Best Practice: The LDP should maintain a sign-in sheet, with time-in/time-out information, to facilitate the ability of court staff to locate litigants and to ensure efficient processing.

c) The LDP should maintain a suite of up-to-date court forms, in multiple languages, including LAR appearance and withdrawal forms.

6) Public Information

- a) Information about the LDP should be broadly disseminated for the public.

Posters advertising the LDP should be posted at relevant settings, including courthouses, court service centers, law libraries, public libraries, legal aid offices, bar association offices, and community centers.

LDPs should periodically check and update as needed their information on the websites of the partner organizations (including mass.gov/courts) and the Legal Resource Finder.

Best Practices: Public information about LDPs should be in English and other frequently used languages.

III. LDP Services

The services provided by an LDP will depend on whether the program offers services only on trial days, or whether the program has the resources to offer services on non-trial days or outside of the courthouse altogether, such as drop-in hours staffed by a bar association, legal aid program or law school clinic. If the only LDP available to litigants is in court, the services offered by the LDP will necessarily be limited in nature; however, services available on non-trial days can significantly increase the program's capacity to provide meaningful assistance to litigants. The LDP services typically provided with the in-court trial day model are described first, followed by a description of additional services that can be provided outside of court or on non-trial days.

1) In-Court Trial-Day Model

A volunteer lawyer participating in an LDP during a court session can assist in a variety of ways. The scope of services provided may depend on the experience of the lawyer and the lawyer's willingness to become actively engaged in advocating on behalf of a client. The services often provided by an LDP are listed below, in a rough order of least to most substantive involvement in a case:

Best Practice: The LDP administrator(s) should be familiar enough with volunteers to have a sense of their experience level and comfort with providing the range of services discussed here.

- a) Identify resources. The volunteer lawyer should be aware of the various resources available to litigants, such as the Tenancy Preservation Program (TPP) and other mental health agencies, rental assistance programs, veteran's services, and any other social service agencies that might be available in the jurisdiction. The lawyer should also be familiar with the local Court Service Center, if one, and the services it offers to self-represented litigants.

Best Practice: Prior to meeting with litigants, the LDP volunteer should find out what services are or will be present in the courthouse that day, and what resources are available outside of the courthouse.

- b) Explain court procedures. Often, self-represented litigants remain confused about court procedures and the next steps in their cases, even after having it explained in the courtroom. The volunteer lawyer can provide a valuable service by explaining the process to litigants in a one-on-one setting.

- c) Assist in completing forms. Litigants often need assistance in understanding court forms. For tenants, many of whom have not filed answers by the mandated deadline, a volunteer lawyer can help complete a motion for leave to file late answer and assist in drafting the answer itself. Other litigants may need to understand how to complete a non-military affidavit or file a motion to stop a physical move out. Even this limited service can make a significant difference in the administration of justice.

Best Practice: The LDP should provide volunteers with a set of commonly used forms.

- d) Identify issues. Whether advising landlords or tenants, the LDP volunteers can advise litigants as to their potential claims and defenses, as well as the likely range of damages. Litigants often need counsel regarding possible defects in notices to quit or pleadings, as well as other procedural hurdles they may face if the case is not resolved by agreement. An LDP volunteer can advise a litigant whether trial is advisable or whether a negotiated agreement would be in the party's best interest.

Best Practice: If the LDP volunteer identifies meritorious claims and is not interested in providing full representation at trial, the volunteer should consider referring the party to a private attorney, as described in subsection (g) below.

- e) Participate in mediation. Given that most Summary Process cases resolve with an agreement of the parties, LDP volunteers provide an extremely valuable service by assisting litigants in negotiating agreements. The Housing Specialists are knowledgeable and experienced, but the litigants have many decisions to make during the course of the mediation, and the LDP can help the party prioritize what is most important and understand the consequences of each provision of the agreement.
- f) Represent a party in court. Courtroom representation can range from a discrete motion (such as a motion to dismiss, a motion to remove default or a motion to stop the physical move out) to an evidentiary hearing or trial. An LDP volunteer also has the option of representing the litigant in a trial. Pursuant to Housing Court Standing Order 1-01, a lawyer participating in an LDP who enters an appearance in the case with the intent to represent the litigant at trial is entitled to a two-week continuance, subject to a judge's discretion to deny the continuance for good cause. If a judge denies the request for a continuance, the LDP volunteer can decide to reconsider his or her intent to represent the litigant at trial.

- g) Refer a party to a private attorney. If the LDP identifies meritorious claims and/or defenses that would benefit from deeper involvement than can be provided in the courthouse on the day of trial, the volunteer could assist the litigant in seeking a continuance for the purposes of making a referral to a lawyer for full or limited assistance representation (LAR). The LDP volunteer can assist a litigant in preparing a motion for a continuance, and, pursuant to Standing Order 1-01, “[s]uch a motion shall be allowed if good cause is shown.”

Best Practice: The LDP should ensure that all volunteers know:

- (i) how to direct litigants to the Housing Court’s list of lawyers willing to accept Limited Assistance Representation cases; and**
- (ii) the contact information for the LDP’s preferred Lawyer Referral Service.**

To be clear, the volunteer lawyer should not refer the matter directly to a private attorney to avoid the appearance that the program is providing fee-generating cases to a select group of attorneys. Likewise, the volunteer lawyer must decline to take on the paid legal representation of a party through participation in an LDP.

2) Non-Trial Day and Out-of-Court Services

An LDP offering services on non-trial days in the courthouse or outside the courthouse through, for example, a legal services program or law school clinic, can offer many of the services described in the previous section – identifying resources, explaining court procedures, assisting with forms, providing legal advice – but it can also augment such services in ways that a trial-day LDP cannot. For example:

- a) **Pre-Litigation Services.** Outside LDPs can assist parties before a case is ever filed in court. For example, volunteers could help a landlord draft a notice to quit or advise a landlord to consider the legal ramifications of commencing a summary process action. On the tenant side, the LDP could work with tenants to take affirmative steps to fix the issues identified in a notice quit. LDP volunteers might help a tenant file for benefits or appeal the loss of benefits, locate financial and charitable resources in the community to assist in paying rent, explain and complete paperwork needed to recertify income in a subsidized tenancy, begin a housing search or make a reasonable accommodation request, just to name a few.

Best Practice: The LDP volunteer should provide the party with a checklist of steps to follow to accomplish the identified goals to improve the chances that the party will follow through with the plan.

- b) Expanded Legal Services. By virtue of having more time than is typically available on the day of trial, an LDP operating outside of the trial day can significantly expand on the in-court services described in the preceding section. For example, such a program could help a tenant file a timely answer and, if appropriate, a demand for discovery. The LDP volunteer could explain to a landlord the exposure he or she may face in light of counterclaims asserted in an answer and refer the landlord to a lawyer offering LAR so that the landlord can be better prepared for trial.

Best Practice: An LDP volunteer who meets with a litigant as part of program operating outside of the courthouse should provide information to the staff operating the in-court LDP with the expectation that it will eliminate the need for an intake process for that litigant on the day of court and allow the LDP operating in the courthouse to operate more efficiently.

The level of service provided by an LDP necessarily depends on the resources available, the organizational skills of the sponsoring entity or person, and the experience of the volunteers. Not every LDP has to offer the full range of services: it is important to remember that any services offered by an LDP will be of great benefit to an unrepresented party.

3) Attorney's Fees

Lastly, a note about legal fees. Although the LDP lawyer provides pro bono legal services to the client, he or she can undertake full representation at trial and seek an award of attorneys' fees. In such a case, the LDP lawyer may accept any legal fees awarded by the court. This is the only circumstance, however, in which a lawyer volunteering in an LDP can get paid for his or her services in the pending or related cases.

IV. Volunteer Recruitment and Retention

The success of an LDP begins, of course, with the ability to recruit and retain volunteers. This section sets forth tips and best practices for recruiting and retaining volunteers.

1) Recruitment

a) Rationale for getting lawyers to volunteer: There are a number of rationales a sponsoring organization can rely on in efforts to recruit volunteers, including the following:

- (1) Volunteering offers an opportunity to have a direct impact in the local community by assisting litigants who would otherwise be unrepresented in complex, high-stakes court proceedings, thereby ensuring that our system of justice is more equitable.
- (2) Volunteering may help to prevent homelessness, as over 90% of tenants appear in Housing Court without representation.
- (3) Volunteering provides lawyers (new to the profession or new to the subject area) with training and experience in a new practice area, benefiting their private practices as well as their pro bono work.

Best Practice: Sponsoring organizations should consider providing experienced mentors to attorneys new to this area of law. See Training section for a fuller delineation of recommended training support.

- (4) LDPs help courts administer justice efficiently.
 - (5) It is a lawyer's ethical duty to provide pro bono publico service. The aspirational responsibility to provide pro bono service is codified in the Massachusetts Rules of Professional Conduct at Rule 6.1, which states that a lawyer "should provide annually at least 25 hours of pro bono publico legal services for the benefit of persons of limited means."
- b) Where to look for volunteers. The professional responsibility to provide pro bono service applies to all lawyers. As such, in developing recruitment strategies, sponsoring organizations should consider tailoring their strategies for different categories of lawyers, including:
- (1) Solo practitioners.
 - (2) Lawyers who work in small or medium sized law firms.

- (3) Large law firms, which often have a pro bono director or partner who can serve as a point of contact.
- (4) In-house corporate counsel. Many corporate law departments have pro bono programs, and are often willing to sponsor an LDP and help with recruitment and training of their in-house lawyers.
- (5) Retired lawyers can continue to provide pro bono legal assistance through a sponsoring legal aid organization. See SJC Rule 4:02(8)(b).
- (6) Government attorneys.
- (7) Law students practicing under SJC Rule 3.03. Law schools are often looking for experiential learning opportunities for their students.
- (8) Lay community volunteers. Under the supervision of an attorney, lay volunteers can provide critical help with intake of clients for in-court LDPs. With training they can also provide information about court process, and assistance with repayment plans and with accessing charitable resources.

Best Practice: Use local or county bar association newsletters to promote the LDP and reach a wide range of lawyers practicing in the court's geographic jurisdiction.

Best Practice: List the LDP on www.MassProBono.org, statewide website that functions as a clearinghouse for pro bono opportunities, as well as the websites of legal aid programs and bar associations within the court's geographic jurisdiction.

Best Practice: Attend law school events designed to connect students with pro bono opportunities.

2) Retention

Having recruited volunteers, it is important to implement practices to retain them. Effective retention practices include:

- a) Recognition initiatives such as:
 - (1) Honor rolls published in bar association platforms.
 - (2) Certificates recognizing participation.
 - (3) Special recognition events, such as luncheons or after-hours gatherings.

Best Practice: Invite local judges and appellate justices to speak at recognition events.

- b) Badges to identify pro bono volunteers during LDP sessions.
- c) Access to experienced mentors for volunteers who are new to the practice area, including individualized mentoring and group mentoring/networking opportunities.
- d) Nominate exceptional volunteers for special pro bono awards by the SJC (Adams Pro Bono Publico Award) MBA, etc.
- e) Provide perks to volunteers, such as:
 - (1) validated parking
 - (2) MCLE pro bono vouchers

3) Ensuring Volunteer Compliance with Program Standards

While there is an understandable learning curve for volunteers, it is important for the LDP to ensure that all volunteers meet minimal standards for competency and professionalism.

- a) Sponsoring organizations should provide regular training, in various forms and formats. See section on Training.
- b) LDPs should have clear policies on attorney's fees and referrals, so as to eliminate the possibility of any unethical or unprofessional conduct by volunteers.
- c) Volunteers who demonstrate lack of competency should be paired with a mentor or otherwise coached, and in extreme cases may need to be removed from service.

Best Practice: LDPs should promulgate written policies and guidelines for their programs.

V. Training

An LDP should provide some form of orientation to the program as well as a substantive law training for volunteers who are new to this area of law. While experience in the substantive area of landlord-tenant law is desirable, the rate of volunteerism will be higher if the LDP has the ability to train and mentor attorneys with limited housing court experience. This section addresses the topics that should be addressed in training volunteers, various approaches to conducting training, and resources that are available to assist with training.

Best Practice: Some level of orientation and training should be mandatory for all volunteers, with the specific training required for a given volunteer being dependent on that individual's preexisting experience in housing law and housing court practice.

Best Practice: Training opportunities should not be limited to a single periodic live event. Rather, the LDP should offer a menu of ways to learn the substantive law.

Best Practice: In addition to live, group events, volunteers should have access to on-site mentors and be encouraged to pursue continuing legal education independently.

1) Orientation and Training

a) Orientation should include:

- (1) Administration of the program
 - i. Review of the Housing Court Department's LDP standing order
 - ii. A review of program policies and guidelines
 - iii. How to volunteer
 - iv. What to expect when volunteering
- (2) Who gets evicted and why? This works best as a facilitated open discussion. The purpose is to flesh out the socio-economic factors that are often the underlying cause of an eviction.
- (3) Tips on working with clients who have low literacy, mental health problems, or limited financial resources.
- (4) Uniform Protocol for Limited Assistance Representation (LAR)

- (5) Review of common forms used in housing court.
 - (6) Protocols for filing late Answers and other motions
 - (7) Protocols for submitting settlement agreements
 - (8) Social and rental assistance services operating in the region
 - (9) Tenancy Preservation Program
- b) Substantive law training should include:
- (1) Overview of Massachusetts residential tenancy law including
 - i. Types of tenancies (including public and subsidized)
 - ii. Security deposits and last month rent
 - iii. Laws governing the right to habitable housing
 - iv. Rules on who pays utilities
 - (2) Eviction process including
 - i. Terminating tenancies/types of notices to quit
 - ii. Summary Process case timeline
 - 1. Service and entry of a complaint
 - 2. Answers and discovery demands
 - 3. Entry of judgment
 - 4. Execution
 - 5. Process for levying on an execution
 - iii. Overview of G.L. c. 239, s 8A
 - iv. Post-foreclosure evictions
 - 1. Former homeowners
 - 2. Rights of tenants, including bona fide tenants and other provisions of G.L. c. 186A
- 2) Training Methods
- a) Live In-Person Training

- (1) In-Person “Immersion” Training. This is a ½ day or full day training covering all of the essential topics listed above. The frequency of this training will depend on resources and the pool of volunteers to be trained.

Best Practice: Sponsoring organizations should convene an in-person “immersion” training at least once per year.

Best Practice: Include as trainers experienced advocates for landlords and tenants.

Best Practice: Have a judge, clerk and housing specialist participate as panelists, to discuss practices of the local court and reduce any anxiety volunteers with limited housing court experience may have about appearing before the court.

- (2) Observation/On-site Learning. New volunteers should be offered the opportunity to observe and shadow an experienced volunteer before volunteering alone. This is an especially effective way to train a volunteer who has never practiced in housing court.
- (3) Roundtables or Mentoring Groups. Regularly scheduled roundtable and/or mentoring groups provide advanced training to volunteers. These sessions may be convened by any of the sponsoring organizations. Explore existing programs around the state, including those hosted by The Volunteer Lawyers Project of the Boston Bar Association and Community Legal Aid in Western Massachusetts.

Best Practice: Develop roundtables on advocacy for both landlords and tenants, and encourage volunteers to participate in cross-training.

- (4) Professional Training. Volunteers should be informed of and encouraged to access training through MCLE, the MBA, the BBA, and other organizations that host seminars on a wide range of housing law topics.

Best Practice: Offer scholarships, when needed, for volunteers to attend professional training programs.

b) Resources for Self-Education

- (1) Residential Landlord-Tenant Benchbook. This publication by the Flaschner Judicial Institute also contains a comprehensive summary of the law with an appendix containing significant cases, and relevant statutes and regulations.

- (2) On-Line Eviction Process Course. Volunteers can avail themselves of this on-line training module that covers the eviction process.
<https://www.masslegalservices.org/lfd-housing>
- (3) Legal Tactics: Tenant Rights in Massachusetts. This joint publication from Mass Law Reform Institute (MLRI) and Massachusetts Continuing Legal Education, Inc. (MCLE) provides a comprehensive review of the law and is annotated with citations to case law, statutes and regulations. It can be accessed for free at
<https://www.masslegalhelp.org/housing/booklets-and-handbooks>.
- (4) Helpful websites:
 - i. www.mass.gov/topics/housing-matters-in-the-courts. The Commonwealth of Massachusetts in collaboration with the Massachusetts Trial Court also has a self-help website where users can access information about landlord-tenant law and connect to official court forms used in the Housing Court department.
 - ii. www.masslegalhelp.org/housing. Although geared towards the pro se user, this legal information website contains many helpful and concise explanations of the law

c) Mentors

Ideally, LDP's should be a collaboration that includes a legal aid organization and the private bar or a bar association. Such a model allows for a staff person or team to anchor the program and perform the recommended intake and triage functions. This staff person or team can also provide on-site mentoring as needed for less experienced volunteers. The LDP should also consider developing a pool of experienced volunteers to mentor less experienced volunteers outside of court in areas such as case assessment and evaluation, negotiation strategies, and client management, as well as with respect to the substantive law.

VI. Social Services and the Tenancy Preservation Program

The Tenancy Preservation Program (TPP) and other social service providers can provide vital assistance and tenancy stabilization resources to landlords and tenants in eviction cases. Having specific information about these resources will assist LDPs in preserving tenancies when the parties wish to do so, and plan for orderly transitions when tenancies cannot be preserved.

1) Tenancy Preservation Program

The signature social service program associated with the Housing Court Department is the Tenancy Preservation Program. TPP is a statewide Housing Court-sponsored program that coordinates services for tenants with disabilities that are affecting their tenancy, thereby facilitating reasonable accommodation of the tenant's disabilities by the housing provider and the court. TPP's tenancy stabilization plan can include referrals to medical providers, representative payee service, financial budgeting assistance, medication management services, child care referrals, and household chore assistance.

Best Practice: Coordinate with the local TPP provider to understand its specific referral process, eligibility criteria, and available services.

Best Practice: Establish a plan for availability of TPP at the LDP sessions, including in-court sessions and pre-court sessions if applicable and feasible.

Best Practice: Seek a referral to TPP as early as possible, to ensure adequate time for assessment and the development of a stabilization plan.

2) Financial assistance

There are a number of social services programs across the state that offer funds to assist tenants with their rent arrearage. These include government-administered programs (RAFT, HomeBase, CDBG, etc.), community action programs (CAPs), faith-based organizations, behavioral health programs, and hospital social work departments. The LDP should maintain a list of the local providers, their eligibility criteria, the amount of assistance available, the application process, and the point of contact for each provider.

Best Practice: Create a list of financial assistance providers for litigants, and have it available in languages frequently used in the LDP's community.

Best Practice: Establish a mechanism for periodic updates from funding providers to ensure that the LDP has current information about available resources.

Best Practice: Arrange for representatives of the financial assistance providers to be available for consultation on the day of court, either in person or by phone, and facilitate referrals by landlords and tenants to the providers so as to expedite the application process.

3) Other Social Service Providers: In addition to T.P.P. and financial assistance providers, there are likely social services in the community for veterans, seniors, and victims of domestic violence, among others. The LDP partners should develop a list of local social service programs, and determine the ability and availability of those providers to assist litigants in eviction cases.

VII. Gauging and Maintaining Program Quality

1) LDP Quality Goals

As outlined in this guide's introduction, the rationale for an LDP is founded on the belief that attorney involvement on both sides of a legal dispute improves the administration of justice and increases the likelihood of a case outcome grounded in facts that have been well-developed and law that has been appropriately applied. Beyond that arguably universally-held belief, however, the definition and measure of program quality may vary among LDP participants. By definition, for example, the court is unlikely to focus on specific case outcomes as a reflection of quality or a metric to measure; the court's commitment to neutrality and impartiality necessarily means that the question of which side wins is not, per se, indicative of whether the LDP functioned as it should.

Partner organizations may well define quality and success differently, with advocacy groups focusing on victories by their respective constituencies (landlords or tenants), bar associations focusing on the quality of the experience for volunteers, and social service providers focusing on whether an underlying social problem has been identified and addressed. While the goals of the various participants may vary, and while each LDP will, of necessity, be adapted to local factors and available resources, it is important that LDPs commit collectively to a standard of excellence. Experience teaches that the following components, many of which are discussed at greater length in other sections of this manual, are necessary to meeting that standard:

- a) Quality Intake/Referral Processes: A successful LDP should have an organized capacity:
 - (1) To make a preliminary assessment of a litigant's case and refer cases to volunteers for the appropriate level of assistance, namely informed self-help, limited assistance, or full representation; and
 - (2) To utilize other services and programs available to assist litigants, including TPP, financial assistance programs (RAFT), and state and local housing shelter programs.
- b) Quality Training of Volunteers: LDP training should cover inter alia:
 - (1) Relevant case and statutory law;
 - (2) Housing court procedures;
 - (3) Valuation of claims;
 - (4) Settlement negotiation and agreements; and
 - (5) Limited trial training.
- c) Quality Administration: A high quality LDP includes the capacity for:

- (1) Scheduling volunteers;
 - (2) Coordinating with the court, the local legal aid program, and other participants;
 - (3) Securing suitable space; and (iv) providing necessary equipment such as a copier and computer terminal for MassCourts access.
 - d) **Quality Legal Forms:** The capacity of LDP volunteers to provide effective and efficient service to litigants is substantially enhanced by having a readily available set of legal forms covering all procedural elements that may be needed in a summary process case, including answer, motion, and agreement forms, as well as LAR appearance and withdrawal forms.
- 2) **Metrics for Assessing LDPs**
- a) **Shared Commitment:** As indicated above, the starting point for a high-quality LDP is a shared commitment to excellence. As an expression of this shared commitment, the participants should identify for one another their priorities for the program. For example, the court may want to reduce the number of landlords and tenants who represent themselves, the legal aid program may be interested in preserving possession for tenants, and the bar association may want to maximize the number of volunteers. Having identified their respective priorities, the participants should make every effort to operate and collect data in ways that allow each to assess and measure their success in meeting those priorities.
- Best Practice: At the inception of the program and at regular intervals thereafter, program participants should meet to identify priorities, the metrics they will use to assess performance, and the data they need for those metrics.**
- b) **Quantitative Assessment:** LDPs should track quantitative data in various categories. While the specific categories may vary among LDPs, each program should identify which numbers are relevant to them and why. For example, grant funding for the legal aid participant may depend on numbers of tenants served, the court may want to track numbers of landlords and tenants served so as to demonstrate compliance with the standing order, bar associations may want to track individual volunteer participation for recognition purposes, and law schools may want data about student participation for purposes of awarding credit or fulfilling a pro bono requirement.
- Best Practice: Develop a joint case information sheet that includes the data points each participant needs, and agree to a process for completing the case information sheets for each litigant.**

Best Practice: Consider enlisting the pro bono services of a data scientist from a local academic institution or corporation to assist in collecting and analyzing data.

- c) Qualitative Assessment: LDPs should consider the following as ways to assess the quality of their programs:

Best Practice: The ultimate purpose of an LDP is to engage more lawyers for more litigants, thereby ensuring more just case outcomes. The participants should commit to evaluating LDP case outcomes in light of their respective priorities, and should agree to collect and share data so as to facilitate their respective case outcome evaluations.

- (1) Regular Input from Housing Court Judges and Court Personnel: It is useful to establish a regular feedback process with the judges and other court personnel after the commencement of the LDP. The feedback should include discussion of administrative issues, observations about the impact of the LDP, and suggestions for improving the program.
- (2) Settlements: As settlement agreements are reviewed by judges, clerks, and mediators, the LDP can seek feedback from the court about the quality of settlements and whether they are perceived to have changed over time as a result of the LDP presence. In particular, the court may be able to offer feedback about whether LDP agreements are clear and realistic, and how compliance/enforcement of LDP agreements compares to those reached without LDP assistance.
- (3) Training Programs and Volunteers as Source of Feedback: The LDP's training for volunteers should continue to engage not only new volunteers, but also experienced participants. Volunteers who have participated on multiple occasions can provide feedback in training sessions for new volunteers by describing their experience. Experienced volunteers can also be a very useful source of ongoing recommendations as to ways of improving the LDP program. Training sessions can also attune newer volunteers to the need to be able to provide critiques and suggestions of how to improve programming.
- (4) Feedback from Litigants and Opposing Counsel: LDPs should consider creating both systematic and ad hoc opportunities for obtaining feedback from the litigants they assist, as well as the opposing counsel.

3) Commitment to Continuous Improvement

As Housing Court LDPs will be new in many jurisdictions, it may take some time to generate useful assessments of program performance. No program starts with every element fully formed; program quality is the result of a focus on continuous improvement. And each new LDP may find unique methods of quality assessment relevant to its specific configuration and needs.

Appendix

Housing Court Standing order 1-01

A Lawyer for a Day Program ("LDP") is a program in which attorneys, acting pro bono, provide limited legal advice to pro se litigants in the Housing Court on a first-come, first-served basis. It is hereby ORDERED that LDP programs shall be permitted in any Housing Court under the following guidelines:

- 1) The LDP shall be sponsored and administered by a state or local bar association or legal services organization, in conjunction with the Housing Court.
- 2) The LDP shall provide advice to all pro se litigants in the Housing Court, tenant or landlord, on a first-come, first-served basis.
- 3) Attorneys participating in the LDP shall follow all applicable guidelines and provisions of the Massachusetts Rules of Professional Conduct.
- 4) No attorney providing advice to a pro se litigant as part of the LDP shall, by reason of providing that advice, be required to enter an appearance in any action in the Housing Court.
- 5) Attorneys participating in the LDP shall be permitted to assist or represent pro se litigants in mediation in connection with an action in the Housing Court. No attorney assisting or representing a pro se litigant in such mediation as part of the LDP shall, by reason of such assistance or representation, be required to enter an appearance in any action in the Housing Court. If the LDP attorney assisting or representing a pro se litigant in mediation does not enter an appearance in that litigant's action, the LDP attorney may assist the litigant in preparing a Motion for Continuance of Trial. Such a motion shall be allowed if good cause is shown. If the LDP attorney assisting or representing a pro se litigant in mediation does enter an appearance in that litigant's action, the litigant shall be entitled to a two (2) week continuance of trial.



Eastern Housing Court lawyer for the day

Get basic legal advice, help understanding laws and your rights, and assistance filling out forms

Days and times

Wednesdays 9:30 am -12 pm
Thursdays 9:30 am - 3:30 pm
First come, first served

Location

Outside Courtroom 15 on the 5th floor of the Edward Brooke Courthouse

Eligibility

Serves both landlords and tenants

Services

Legal advice and strategy; help filling out forms; referral to service agencies; representation in mediation; may file court appearance

Other information

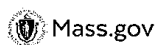
Project provides advice to both BHA and private tenants, as well as landlords.

For more information contact the clerk's office at (617) 788-8486.

Administered by the Volunteer Lawyers Project (VLP): (617) 423-0648

RELATED

[Boston Housing Court](#) →



Central Housing Court lawyer for the day

Get basic legal advice, help understanding laws and your rights, and assistance filling out forms

Day and Time

Thursdays 8:30 a.m. - 1 p.m.
First come, first served.

Location

Check in at Housing Court Clerk's Office

Eligibility

Serves both landlords and tenants

Services

Legal advice and strategy; help filling out forms

Other Information

Coordinated by Community Legal Aid (CLA): (508) 755-3260
Clerk's office: (508) 831-2050

RELATED

[Worcester Housing Court](#) →



Northeast Housing Court - Lawrence Session lawyer for a day

Get basic legal advice, help understanding laws and your rights, and assistance filling out forms

Day and Time

Thursdays 8:30 am - 1 pm
First come, first served

Location

Check in at Housing Court Clerk's Office

Eligibility

Serves both landlords and tenants

Services

Legal advice and strategy; document preparation; referral to service agencies; may file court appearance

Other Information

Coordinated by Northeast Legal Aid- Lawrence: (978) 888-0010

Clerk's office: (978) 689-7833

RELATED

[Lawrence Housing Court](#) ➔

[Lawrence Court Service Center](#) ➔



Northeast Housing Court - Lowell Session lawyer for a day

Get basic legal advice, help understanding laws and your rights, and assistance filling out forms

Day and Time

Mondays 8:30 a.m. -1 p.m.
First come, first served

Location

Check in at Housing Court Clerk's Office

Eligibility

Serves both landlords and tenants

Services

Legal advice and strategy; document preparation; referral to service agencies; may file court appearance

Other Information

Coordinated by Northeast Legal Aid- Lowell: (978) 888-0006

Clerk's office: (978) 689-7833

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[Lowell Housing Court](#) →



Northeast Housing Court - Lynn Session lawyer for a day

Get basic legal advice, help understanding laws and your rights, and assistance filling out forms

Day and Time

Tuesdays 8:30 a.m. - 1 p.m.

Location

Check in at Housing Court Clerk's Office

Eligibility

Serves both landlords and tenants

Services

Legal advice and strategy; document preparation; referral to service agencies; may file court appearance

Other Information

Coordinated by Northeast Legal Aid- Lawrence: (978) 888-0010

Clerk's office: (978) 689-7833

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[Lynn Housing Court](#) →



Northeast Housing Court - Salem Session Court lawyer for a day

Get basic legal advice, help understanding laws and your rights, and assistance filling out forms

Day and Time

Wednesdays 8:30 a.m. - 1 p.m.

Location

Check in at Housing Court Clerk's Office

Eligibility

Serves both landlords and tenants

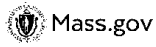
Services

Legal advice and strategy; document preparation; referral to service agencies; may file court appearance

Other Information

Coordinated by North Shore Community Action Programs (NCAP): (978) 531-0767

Clerk's office: (978) 689-7833



Southeast Housing Court - Brockton session lawyer for the day

Get basic legal advice, help understanding laws and your rights, and assistance filling out forms

Day and Time

Wednesday mornings
First come, first served

Location

Sign in at Housing Court Clerk's Office on the 1st Floor.

Eligibility

Serves both landlords and tenants

Services

Legal advice and strategy; document preparation; referral to community and additional court-connected resources

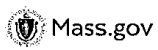
Other Information

Coordinated by Pilgrim Advocates: (508) 583-6966

Clerk's office: (508) 894-4170

RELATED

[Brockton Housing Court](#) →



Western Housing Court - Springfield Session lawyer for the day

Get basic legal advice, help understanding laws and your rights, and assistance filling out forms

Day and Time

Thursdays 8:30 a.m.-1 p.m.

Location

Jury Room, called the "Resource Room" on Thursdays

Eligibility

Serves income-eligible landlords and tenants (must have case on docket for that day to receive assistance)

Services

Legal advice and strategy; help filling out forms; referral to service agencies; representation in mediation; may file a court appearance

Other Information

Co-sponsored by Hampden County Bar Association: (413) 732-4660

Clerk's office: (413) 748-7838

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[Springfield Housing Court](#) →