

Identifying Tenants' Rights Issues and Making Legal Referrals

Housing counselors who provide rental counseling may encounter clients whose housing challenges present legal issues. It is important to be able to spot legal issues so that when they arise, you can connect your client to the services of a licensed attorney, including non-profit legal aid or *pro bono* legal resources. Knowing how to spot legal issues helps counselors refer clients to appropriate outside services. It also helps housing counselors avoid the unauthorized practice of law.

When tenants bring up potential legal issues, housing counselors must ensure they avoid the unauthorized practice of law¹ and understand their local legal services providers intake criteria and set appropriate expectations².

Common tenants' rights issues to spot

When tenants may have potential legal claims or defenses that could be raised, consider a referral to legal services. Common legal issues include:

Check Yes/No	Question	Description
	Is your client facing eviction in housing court ?	Tenants facing eviction in housing court may have legal defenses or counterclaims that could be asserted in the context of the eviction proceeding; legal advice or representation may help them properly raise these claims in court.
	Is your client living in unsafe or uninhabitable conditions ?	If tenants are dealing with unsafe or uninhabitable conditions in their unit, tenants may have legal rights under state laws to obtain repairs from their landlord. These rights may be enforced by legal action and could possibly be raised as a defense to an eviction for non-payment of rent.
	Has your client been illegally locked out or faced landlord harassment?	It is almost always illegal for a landlord to use "self-help" to lock out or remove a tenant from a unit, rather than obtaining a court order for eviction and having that order be enforced by duly authorized agents of the law. A tenant who has been the victim of an illegal self-help eviction may be able to raise legal claims against the landlord under state law. Some states have also adopted laws that protect tenants from harassment by their landlords that attempts to compel the tenant to give up their legal rights.

¹ All states have laws that restrict the practice of law to licensed attorneys. Non-lawyers may provide information about laws and resources that exist to protect tenants, but only lawyers are permitted to give legal advice to clients that tells them how to proceed in their specific legal matter, and to represent them in court. However, in some proceedings housing counselors may serve as a client advocate.

² Demand for free legal assistance for vulnerable populations is high and most legal aid and pro bono resources must turn away a high number of cases and limit services. Become familiar with the intake criteria for legal organizations in your area.

Check Yes/No	Question	Description
	Is your client's landlord in violation of fair housing laws ?	Landlords may not refuse to rent to, renew the lease of, or otherwise discriminate against, any person or group of persons because of race, creed, color, national origin, sex, disability, age, marital status, or familial status. An aggrieved party should contact HUD within one year after the alleged discriminatory housing practice occurs or ceases. In addition, tenants who may have been subjected to housing discrimination may bring the matter to their local legal services provider to determine if a fair housing claim exists.
	Has your client's landlord refused a disability accommodation ?	A tenant with a disability who thinks a landlord has unreasonably refused a reasonable accommodation request should contact HUD. Accommodation requests may include changing a "no pets" rule so a person with disabilities can keep a service animal, reserving a parking space near the building entrance, or refraining from strictly enforcing the lease where doing so would punish the person for their disability.

When you spot situations like these where the tenant may have legal claims or defenses that should be raised, consider a referral to your local legal aid provider. Most entities funded by the federal Legal Services Corporation provide legal assistance to tenants to some degree. You should document legal referrals in your client's file.