Building Blocks of Landlord Tenant Mediation – Executive Summary

A Toolkit for Developing a Local Program
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The Housing Alliance is a statewide coalition working to provide leadership and a common voice for policies, practices, and resources to ensure that all Pennsylvanians, especially those with low incomes, have access to safe, decent, and affordable homes.

We promote common-sense solutions to balance PA’s housing market and increase the supply of safe, decent homes for low-income people.
The Housing Alliance developed this toolkit to support local communities as they move towards implementation of landlord tenant mediation programs.

For any questions or further assistance, please contact Gale Schwartz at 412.336.8605 or gale@housingalliancepa.org.

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A Toolkit for Developing a Local Program

Purpose
Too often the relationships between tenants and landlords can seem adversarial and crisis experienced by either can add tension to this relationship. But the reality is that before the COVID-19 pandemic and especially now, tenants and landlords need each other to be successful. We are all in this together.

The Housing Alliance of Pennsylvania supports community efforts to build or expand mediation programs to stabilize renter households and prevent evictions. This effort is especially important and timely due to concerns that COVID-19 related job losses will result in mass evictions. Mediation is an effective tool to address landlord-tenant disputes and avoid court involvement. It is a model that has been used at the community level prior to the pandemic and is a critical component of a comprehensive and longer-term strategy to stabilize landlord-tenant relationships and preserve a tenant’s rental housing situation.

Local leaders are struggling with what to do about the eviction crisis. Eviction completely disrupts tenants’ lives and saddles them with a court record that can negatively impact future housing opportunities for years to come. Landlords, often operating on tight margins, lose necessary income impacting their ability to meet their financial and operational obligations, including repairs and maintenance. However, the eviction aftermath is not just limited to the tenants and landlords, it also negatively impacts employers, schools, social services, courts, neighborhoods and more.

This toolkit outlines four building blocks to create a successful landlord-tenant mediation program.

**BLOCK 1: CONVENE Local Partners**
This block has a list of who you want at the table working together to create a holistic program that will prevent evictions, balancing the needs of tenants and landlords. We also included a basic overview of the current and impending eviction crisis.

**BLOCK 2: EDUCATE Stakeholders**
This block is an overview of mediation, how mediation can help mitigate evictions, and example programs in Pennsylvania and around the country.

**BLOCK 3: DESIGN the Program**
This block is an overview of holistic tenant-landlord mediation that incorporates wrap around services and legal supports. There are also fact sheets and articles that help demonstrate the need for this type of program in your community.

**BLOCK 4: ADVERTISE the Program**
This block has ideas to help get the word and sample marketing materials out so that both tenants and landlords are aware of your program and seek its services.
The impact of evictions are not limited to only the tenants and landlords, it also negatively impacts employers, schools, social services, courts, neighborhoods, local governments, and many others. For this reason, including a broad group of partners focused on the shared goal of preventing eviction is important to develop strong landlord tenant mediation programs.

**Goal:** Eviction Prevention
Mediation as a tool became more widespread in the wake of the 2008 financial crisis. At first used to support homeowners facing foreclosure, mediation has since gained momentum across the country in addressing the eviction crisis. A 2020 policy brief issued by the Urban Institute found that landlord tenant mediation policies, processes, and resources can vary wildly across jurisdictions.

One benefit of mediation is that it is nimble and flexible to meet the complexity of landlord tenant disputes, and it is flexible in the communities and scales in which it can operate. For example, the Philadelphia Good Shepard Mediation Program began with a one-time grant of $10,000 and now is being brought to scale through the city’s housing trust fund. The appendix includes more information on the programs listed below.

<table>
<thead>
<tr>
<th>Community</th>
<th>Program</th>
<th>Cost to Participants</th>
<th>Funding</th>
<th>Supportive Service Component for Tenants</th>
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</thead>
<tbody>
<tr>
<td>Pittsburgh</td>
<td>Just Mediation Pgh</td>
<td>No cost, limited to income-eligible tenants</td>
<td>CDBG-CV and foundation grants</td>
<td>Tenants are referred to partnering agencies for financial coaching services, rental assistance, and other supportive services.</td>
</tr>
<tr>
<td>Philadelphia</td>
<td>Good Shepherd Mediation Program</td>
<td>No cost</td>
<td>Philadelphia Housing Trust Fund</td>
<td>Tenant advocates meet with tenants as part of the process; review of tenant rights and provides support through the process.</td>
</tr>
<tr>
<td>Cambridge, MA</td>
<td>Just-A-Start</td>
<td>No cost, limited to income-eligible tenants</td>
<td>CDBG</td>
<td>In-house financial assistance is available, and tenants can be referred to other supportive services as needed.</td>
</tr>
<tr>
<td>Palo Alto, CA</td>
<td>Palo Alto Mediation Program</td>
<td>No cost</td>
<td>Fee for service contract with local government</td>
<td>Case managers review tenants' rights with tenants and provide referral to other supports as needed.</td>
</tr>
<tr>
<td>Toledo, OH</td>
<td>The Fair Housing Center</td>
<td>No cost, limited to income-eligible tenants</td>
<td>TANF and foundation funding</td>
<td>Landlords and tenants are offered information on rights and responsibilities during the intake process. If there is evidence of discrimination, clients can be referred to the in-house fair housing department. Referrals to supportive services available.</td>
</tr>
</tbody>
</table>
Mediation is a discussion between two disputing parties facilitated by a third party. Mediation explores a conflict from both sides and empowers the parties to resolve the conflict. Success in mediation is defined as the creation of a plan to which both parties agree and adhere to.

The mediator is a neutral party, who does not resolve a dispute for others, but helps the disputing parties resolve it themselves by supporting their constructive dialogue and interaction towards a mutually agreeable resolution.

Mediation differs from other dispute resolution processes (see Figure 1) in that the disputing parties make their own decisions and craft their own agreement. Mediation offers significant advantages over litigation and other processes by saving time and money, preserving valued business relationships, and reducing stress.

Source: PON Staff (2020) 1

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Figure 1
Models of Dispute Resolution

**Mediation**
A neutral third party helps disputants come to a consensus on their own. Rather than imposing a solution, a professional mediator works with the conflicting sides to explore the interests underlying their positions.

**Arbitration**
A neutral third party serves as a judge who is responsible for resolving the dispute. The arbitrator listens as each side argues its case and presents relevant evidence, and then renders a binding decision.

**Litigation**
Typically involves a defendant facing off against a plaintiff before either a judge or a judge and jury. The judge or the jury is responsible for weighing the evidence and making a ruling.

Source: PON Staff (2020) 1

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Figure 2: The General Mediation Process

Confidentiality

Mediations are typically confidential. In Pennsylvania, the mediator-client relationship is granted confidentiality by statute. Exceptions are that mediators may report threats against a person or property under circumstances constituting a felony or conduct resulting in injury that took place during the mediation.

Legal Requirements

Mediators do not have to be lawyers. However, it is good practice to either choose a mediator who is familiar with laws relevant to the dispute or to have a subject-matter expert participate in the process. For landlord-tenant disputes, it is recommended to have a mediator with basic landlord-tenant training and to include a tenant advocate in the process.

Mediators do not need to be affiliated with the legal system and many come from other disciplines including social work, psychology, education, and religion. There is a network of practicing mediators operating in Pennsylvania who have met the qualifications established by local and national organizations and programs. Basic training to become a mediator varies from 20 to 40 hours and can be offered by non-profits, community mediation centers, or presented by a sponsoring organization. While some states do have licensure or certifications requirements for professional mediators, this is not required of professional mediators in Pennsylvania.

Holistic Approach

Models of existing landlord tenant specific mediation programs go beyond the outlined process of general mediation by incorporating both legal support and/or education and social service supports to help address underlying issues leading to the dispute such as job loss, health crisis, needed repairs, and more. The components of a well-rounded landlord-tenant specific mediation program will be discussed in more detail in Block 3.

To learn more about basic mediation, visit the Pennsylvania Mediators Council website (www.pamediation.org) to find trainings and mediators in communities across Pennsylvania.
BLOCK 3: DESIGN the Program
Landlord-Tenant Mediation Program - Core Components

- Mediator
- Housing Counselor
- Wrap Around Supports
- Legal Support
**BLOCK 3: DESIGN the Program**  
Landlord-Tenant Mediation Program - Clarifying Roles

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**Mediator**  
It is good practice in any mediation situation to either choose a mediator who is familiar with the laws relevant to the dispute or to have a subject-matter expert participate in the process.  
To see if a mediator is skilled in landlord tenant dispute works in your community or to find a training to become a mediator, visit the PA Mediations Council Website.

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**Housing Counselor**  
It is important to build an education component into the process for both parties and to review with tenants their rights and responsibilities under the law. This can help address any knowledge gaps and support reaching a viable agreement.  
Research shows that tenants who receive, at minimum, education on their rights at mediation achieve better outcomes.  
Informing tenants of their legal rights ensures tenants are making informed decisions in the mediation.

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**Wrap Around Supports**  
A key component is to work with the tenants to identify social services and sources of financial assistance to mitigate other issues that might be causing the housing instability that come to light from the mediation.

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**Legal Support**  
It is recommended to partner with legal services to develop high quality trainings for mediators and tenant advocates so they can better understand the general landscape of eviction, the court process of eviction, and any relevant information about landlord tenant law.  
During the mediation process, legal support may be needed to provide education and guidance to program staff on case specifics.
**BLOCK 3: DESIGN the Program**

**Landlord-Tenant Mediation Program – Important Role Considerations**

**Mediator**
It is NOT recommended that legal aid attorneys serve as mediators in pre-filing mediation involving low-income tenants. That involvement may create a conflict of interest that could become a barrier to that tenant accessing needed legal services later.

**Housing Counselor**
It is recommended to partner with legal services and/or law schools to develop trainings and identify potential volunteers (i.e. law students) for this role.

**Wrap Around Supports**
This is a position where a person with lived experience can be of significant value. People with lived experience are resourceful in navigating complex systems and adept at advancing creative solutions within local communities. This model has been highly successful in the Mental Health and Substance Abuse Recovery communities through Peer Support Specialists and is already happening informally through community based grassroots and tenant advocacy organizations.

**Legal Support**
In the event a landlord comes to the mediation with limited resources but is in need of information or legal advice, there is low-cost legal consultation from the Pennsylvania Bar Association Lawyer Referral Service. Through this service, a person can receive an initial legal consultation of up to one half-hour for a fee of $30. It is limited by county so be sure to check the website for availability.
BLOCK 3: DESIGN the Program
Example Landlord Tenant Mediation Process

Mediator Contacted
- Mediator can be contacted by either disputing party or through a third party referral such as a Judge or Magistrate (subject to court rules and procedures)
- Mediator Program will initiate contact with other party, discuss process, and obtain consent

Intake complete
- Intake is completed with both of the disputing parties and a mediation is scheduled
- Tenant is referred to a Housing Counselor
- Services could be offered to landlords as well if needed

Pre-mediation
- Tenants meets with a Housing Counselor to review the terms of their lease, their rights under the laws, the eviction process, housing options, financial assistance, and any other mitigating circumstances such as housing quality of unit and tenant rental history

Mediation
- Both parties meet with a neutral third party who works to facilitate a constructive dialogue and interaction achieving a mutually agreeable resolution.
- Legal consultation may be available to answer questions or review information with either party during the mediation process but should not participate in the mediation itself

Post-Mediation
- Tenants and landlords should have some follow-up to ensure the mediation agreement is being upheld and that both parties are connected to resources as needed
- It’s more likely tenants will require some rental assistance but landlords may also be connected to resources such as help to finance needed repairs

Measuring Success
- Both parties walk away with a signed agreement and are satisfied with the outcome
- Tenant is stably housed 6 months after mediation
- (Pre-filing only) An eviction is not filed against the tenant for at least 6 months
- Both parties adhere to the agreement for at least 6 months
BLOCK 4: ADVERTISE the Program

A strong awareness campaign is needed and should include printed materials, online content, and community presentations to get the word out about the program and how it is a better alternative to court based operations.

There are two main points to take into consideration when identifying partners to help raise awareness about your mediation program:

1) The geographic footprint to be served by the program
2) Partnering with trusted messengers to connect with potential consumers of the program

Example organizations and businesses to partner with for education and advertising about an eviction mediation program

<table>
<thead>
<tr>
<th>Tenant Oriented Groups</th>
<th>Landlord Oriented Groups</th>
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</thead>
<tbody>
<tr>
<td>Community Centers</td>
<td>Courts</td>
</tr>
<tr>
<td>Community / Social Services</td>
<td>Elected Officials</td>
</tr>
<tr>
<td>Crisis Services</td>
<td>Homeless Assistance Providers</td>
</tr>
<tr>
<td>Elected Offices</td>
<td>Landlord Associations</td>
</tr>
<tr>
<td>Food Banks</td>
<td>Local Government</td>
</tr>
<tr>
<td>Health Providers</td>
<td>Public Housing Authorities</td>
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<tr>
<td>Legal Services</td>
<td>Realtor Associations</td>
</tr>
<tr>
<td>Libraries</td>
<td>Redevelopment Authorities</td>
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<tr>
<td>Public Assistance Office</td>
<td></td>
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<tr>
<td>Religious Institutions</td>
<td></td>
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<tr>
<td>Schools / Day Cares</td>
<td></td>
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</tbody>
</table>

Use Bulletin Boards and Community Events Hosted by Other Businesses

- Coffee Shops
- Grocery Stores
- Hardware / Home Improvement Stores
- Home and Gardens Shows / Conventions
- Grocery Stores
- Laundromats

Helpful Hint For Social Media Marketing

Research Facebook Groups. Both low-income residents and landlords use Facebook groups to share resources. It can be a good way to engage with the target audience in a more directed way than by creating a post within your own social media accounts.