

# Civil Rights

NH Dept. of Education  
Office of Nutrition Programs and Services  
March 2022



**Bureau of  
Student Wellness  
& Nutrition**

New Hampshire Department of Education

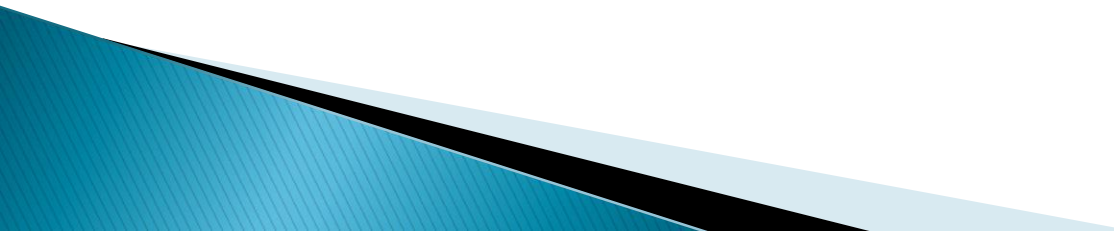
# Civil Rights

- ▶ Everyone has the right to file a civil rights complaint for federal and state protected bases.
- ▶ This presentation will give you the information needed to:
  - Understand civil rights.
  - Know what to do if you are given a civil rights complaint.
  - Offer customer service to the complainant.
  - Understand where to go for conflict resolution.

# Civil Rights Program Authorities

- Title VI of the Civil Rights of 1964
  - race, color, and national origin
- Civil Rights Restoration Act of 1987
  - clarifies the scope of the Civil Rights Act of 1964
- Sections 504 & 508 of the Rehabilitation Act of 1973
- Section 504 of the Rehabilitation Act of 1973 & Americans w/Disabilities Act (ADA) of 1990 and ADA Amendments Act of 2008
  - disability
- Title IX of the Education Amendments of 1972
  - sex
- Age Discrimination Act of 1975
  - age

# Civil Rights and Program Authorities

- ▶ Richard B. Russell National School Lunch Act of 1946
  - ▶ Child Nutrition Act of 1966
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# Civil Rights Program Authorities

- 7 CFR Parts 15, 15a & 15b
- 7 CFR Part 210 (NSLP)
- 7 CFR Part 215 (SMP)
- 7 CFR Part 220 (SBP)
- 7 CFR Part 225 (SFSP)
- 7 CFR Part 226 (CACFP)
- 7 CFR Part 245 (NSLP / SMP / SBP) [Eligibility]

# CR Program Authorities

- 28 CFR Part 42: Nondiscrimination in Federally Assisted Programs
- FNS Instruction 113-1 Appendix B (NSLP, SMP, SBP, SFSP, CACFP)
- Executive Order 13166 – addresses/improves access requirements for persons with Limited English Proficiency (LEP)
- 7 CFR Part 16, “Equal Opportunity for Religious Organizations” – allows religiously affiliated organizations to compete equally for USDA assistance
- USDA Departmental Regulation 4330-002 – prohibits discrimination in programs and activities receiving Federal financial assistance from USDA

# Equal Opportunity for Religious Organizations (Regulation)

7 CFR Part 16:

- This regulation ensures a religious organization is eligible, on the same basis as any other eligible private organization, to access and participate in USDA assistance programs.

# What is discrimination?

“Different treatment which makes a distinction of one person or a group of persons from others; either intentionally, by neglect, or by the actions or lack of actions...”

For FNS programs discussed today, complaints are based on one or more of the six Federally protected bases:



# Federally Protected CR Bases

- 1) Race,
- 2) Color,
- 3) National Origin,
- 4) Age,
- 5) Sex (including gender identity and sexual orientation)
- 6) Disability.

# Additional State Protected Classes

- ▶ There are additional State protected classes for you to be aware of. These are:
  - Sexual Orientation
  - Religion
  - Marital Status
  - Familial Status
  - Gender Identity (just added in 2018)

Administered through the NH Commission for Human Rights – [humanrights@nh.gov](mailto:humanrights@nh.gov) Contact them for questions about and complaint submission of state protected classes as well as conflict resolution.

# Language Interpreter in NH

- ▶ The NH Commission for Human Rights offers a language interpreter. To access dial:
  - 603-271-2767 (or TD ACCESS: relay NH 1-800-735-2964), press #0
- ▶ You may also contact the Commission at:
  - [humanrights@nh.gov](mailto:humanrights@nh.gov) and make an appointment for language interpretation.

# Assurances

- “To qualify for Federal financial assistance, the program application must be accompanied by a written assurance that the program or facility will be operated in compliance with the CR laws and implementing nondiscrimination regulations.”
- A civil rights assurance must be incorporated in all agreements between State and local agencies
- A civil rights assurance must be incorporated in all agreements between State and CACFP sponsors, and CACFP sponsors and their sub recipients.
  - ▶(FNS Instruction 113-1, Appendix B(D)(2) and Form FNS-74)

# Assurances continued

- FNS will obtain a written assurance from each State agency and will ensure that State agencies obtain assurance from local agencies
  - State assurance accomplished via Fed-State Agreement (Form FNS-74)
- Retailer and vendor agreements must also include an assurance of nondiscrimination.
  - Many SFAs contract with Food Service Management Companies (FSMC) to provide food service to students. Thus, the SFA would be responsible for ensuring that their FSMC are in compliance with CR requirements.
- This assurance is binding on the program applicant and its successors, transferees, and assignees, as long as they receive assistance or retain possession of any assistance from USDA.

# Public Notification

- All FNS assistance programs must include a public notification system.
- The purpose of this system is to inform applicants, participants, and potentially eligible persons of:
  - program availability,
  - program rights and responsibilities,
  - the policy of nondiscrimination and
  - the procedure for filing a complaint for both federal and state protected classes.
  - In NH, an email notification system is utilized.

# Elements of Public Notification

State agencies and their subrecipients must:

- ▶ Make program information available to the public upon request;
- ▶ Prominently display the “And Justice for All” poster;
- ▶ Inform potentially eligible persons, applicants, participants and grassroots organizations of programs or changes in programs;
- ▶ Convey the message of equal opportunity in all photos and other graphics that are used to provide program or program-related information;
- ▶ Provide appropriate information in alternative formats for persons with disabilities and in the appropriate language(s) for LEP persons.

# Nondiscrimination Statements

At the minimum, the federal nondiscrimination statement should be on:

- Application Form(s)
- Notification of Eligibility or Ineligibility
- Expiration of Certification Notification
- Discontinuance Notification
- Program (Home) Web Page
- Public Information
- NH requires short NDS on menus



# Nondiscrimination Statement

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA.

Persons with disabilities who require alternative means of communication for program information (e.g. Braille, large print, audiotape, American Sign Language, etc.), should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program complaint of discrimination, complete the [USDA Program Discrimination Complaint Form](#), (AD-3027) found online at: [How to file a program discrimination complaint](#), and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

- (1) mail: U.S. Department of Agriculture  
Office of the Assistant Secretary for Civil Rights  
1400 Independence Avenue, SW  
Washington, D.C. 20250-9410;
- (2) fax: (202) 690-7442; or
- (3) email: [program.intake@usda.gov](mailto:program.intake@usda.gov).

This institution is an equal opportunity provider.

# Nondiscrimination Statement *(Spanish)*

De conformidad con la Ley Federal de Derechos Civiles y los reglamentos y políticas de derechos civiles del Departamento de Agricultura de los EE. UU. (USDA, por sus siglas en inglés), se prohíbe que el USDA, sus agencias, oficinas, empleados e instituciones que participan o administran programas del USDA discriminen sobre la base de raza, color, nacionalidad, sexo, discapacidad, edad, o en represalia o venganza por actividades previas de derechos civiles en algún programa o actividad realizados o financiados por el USDA.

Las personas con discapacidades que necesiten medios alternativos para la comunicación de la información del programa (por ejemplo, sistema Braille, letras grandes, cintas de audio, lenguaje de señas americano, etc.), deben ponerse en contacto con la agencia (estatal o local) en la que solicitaron los beneficios. Las personas sordas, con dificultades de audición o discapacidades del habla pueden comunicarse con el USDA por medio del Federal Relay Service [Servicio Federal de Retransmisión] al (800) 877-8339. Además, la información del programa se puede proporcionar en otros idiomas.

Para presentar una denuncia de discriminación, complete el Formulario de Denuncia de Discriminación del Programa del USDA, (AD-3027) que está disponible en línea en [USDA Programa Compilan Forma Spanish](#) en cualquier oficina del USDA, o bien escriba una carta dirigida al USDA e incluya en la carta toda la información solicitada en el formulario. Para solicitar una copia del formulario de denuncia, llame al (866) 632-9992. Haga llegar su formulario lleno o carta al USDA por:

- (1) correo: U.S. Department of Agriculture  
Office of the Assistant Secretary for Civil Rights  
1400 Independence Avenue, SW  
Washington, D.C. 20250-9410;
- (2) fax: (202) 690-7442; o
- (3) correo electrónico: [program.intake@usda.gov](mailto:program.intake@usda.gov).

Esta institución es un proveedor que ofrece igualdad de oportunidades.

# Nondiscrimination Statement Continued

- USDA Nondiscrimination Statement (NDS)
  - Short versions
    - This institution is an equal opportunity provider.
    - Esta institución es un proveedor que ofrece igualdad de oportunidades. (Spanish)
    - \*Can be used in special circumstances only
  - Translations
    - Other languages are available on the FNS Civil Rights web page
    - [FNS Nondiscrimination Statement](#)

State agency also has a few posters in braille version.

# “And Justice For All” Poster

- Display the poster in central prominent locations for all to view
- In cafeterias, main offices, where meals are distributed
- AD-475A September 2019
- Poster reflects current graphic



# Race/Ethnicity Data Collection

- Purpose: To determine how effectively FNS programs are reaching potentially eligible persons and beneficiaries
- As a means of monitoring civil rights compliance, state agencies shall establish a system for the collection of race/ethnicity data of each person applying for and receiving benefits.
- Applicants shall be assured that the information is required for and used for statistical purposes only and has no effect on eligibility criteria.
- Case workers are required to collect the data at the point of application.

# Race/Ethnicity Data Collection

- If an applicant/parent does not consent to the self-identification method, the caseworker will, through visual observation, determine the applicant's race or ethnicity and mark applicable category.
  - [Children are not to be surveyed.](#)
- State and local agencies should compare their participant data with potentially eligible persons within their service areas

# Race/Ethnicity Data Collection

- In instances where race/ethnicity data is collected via online systems, provisions must be made for applicants/ participants to self-identify. The ability to verify this data by some manner of signing a printout, etc., must be available.
- Data must be collected/retained by the service delivery point for each program as specified in the program regulations, instructions, policies and guidelines.
- Records must be maintained for 3 + current years.
- Access restricted only to authorized personnel.
- Complete reports and submit data, as required to FNS.

# IMPORTANT CHANGE FOR RACE/ETHNICITY DATA

- ▶ Visual observation and identification is no longer an allowable practice for program operations to use during the collection of race or ethnicity data
- ▶ Collection of Race and Ethnicity Data by Visual Observation and Identification in the Child and Adult Care Food Program and Summer Food Service Program – Policy Rescission ([azureedge.net](http://azureedge.net))
- ▶ CACFP 11-2021                      SFSP 07-2021



# Race and Ethnicity Categories – Two Question Format

## 1. Ethnicity

- *Hispanic or Latino*
- *Not Hispanic or Latino*

## 2. Race (one or more of the following)

- *American Indian or Alaska Native*
- *Asian*
- *Black or African American*
- *Native Hawaiian or Other Pacific Islander*
- *White*

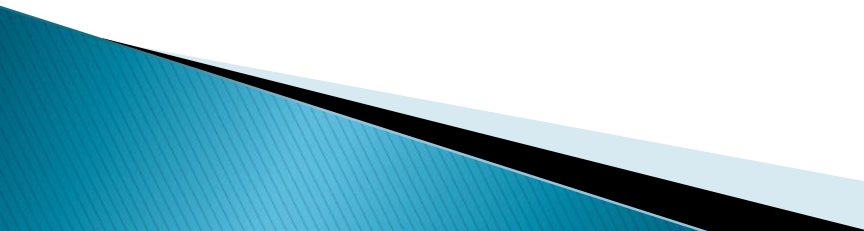
# Complaints of Discrimination

## USDA FNS


- All civil rights complaints regarding the federally protected bases shall be accepted and forwarded to the Office of the Assistant Secretary for Civil Rights.
- The individual must file complaint within 180 days from act of discrimination.
- Referral to USDA is currently required for complaints on the six protected bases noted earlier.
  - FNS / State agency Complaint Processing MOU of 2016
  - Does your current agency policy/process reflect this?
- Complaints (either federal or state) may be written, verbal, or anonymous;

# Complaints of Discrimination

## NH FNS

- ▶ Complaints regarding the state protected bases shall be accepted and forwarded to the NH Commission for Human Rights.
  - ▶ The individual must file complaint within 180 days from act of discrimination.
  - ▶ Referral to the NH Commission on Human Rights is required for complaints on the state protected bases noted earlier.
  - ▶ Complaints (either federal or state) may be written, verbal, or anonymous
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# COMPLAINT FORMS AND LOGS

- State or local agencies may develop their own complaint forms; but the use of such forms cannot be a prerequisite for acceptance of a complaint.
  - State and local agencies must maintain a separate log for tracking and confidentiality. State agency also sends out complaint procedure to all sponsors annually.
  - It is suggested that sponsors also maintain a log for tracking complaints
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# Civil Rights Complaints Form

- English
  - [USDA Complaint Form](#)
- Spanish
  - [USDA Program Complaint Form Spanish](#)

# Civil Rights Compliance Areas

- Assurances
- Public Notification
- Race/Ethnicity Data Collection
- Complaints of Discrimination
- Compliance Reviews
- Resolution of Noncompliance
- Civil Rights Training
- Disability Compliance
- LEP

# Compliance Reviews

- To examine the activities of State agencies, Local agencies, and Sub-recipients
- To determine their adherence with civil rights as well as program requirements.
- FNS Civil Rights and Program staff review State agencies.
  - FNS staff and State agencies review local agencies.
    - Local agencies review their subrecipients.
- State agencies must report significant findings to the reviewed entity and to FNS.

# Compliance Review Types

- There are three types of compliance reviews:
  1. Pre-Award
  2. Routine (Post-Award)
  3. Special



# Pre-Award Compliance Reviews

- These reviews are conducted by the State Agency and are usually done as desk reviews of information provided by applicants in their official application to operate a FNS Federally-assisted program.
- No Federal funds shall be made available to a State or an institution until a Pre-Award Compliance Review has been conducted and the applicant has been determined to be in compliance with Title VI.

# Routine (Post-Award) Compliance Reviews

- Routine CR Compliance Reviews are a component of the FNS Management Review process.
  - Conducted jointly or independently by the CR staff
  - Examine the activities of State and local agencies / subrecipients to determine that FNS-funded programs are being administered in accordance with civil rights requirements.
- The office performing the review must advise the reviewed entity, in writing, of the review findings and recommendations.

# Routine (Post-Award) Reviews

**Scope of State agency or FNS reviews of local agencies includes the following eight areas:**

- 1) eligible persons and households have an equal opportunity to participate;
- 2) case records are coded by race or ethnic origin;
- 3) offices are displaying the “And Justice for All” poster in a prominent location;
- 4) nondiscrimination statement; statement to be included in program materials such as application, notices brochures.
- 5) availability of program information to eligible persons, program applicants and participants;
- 6) race and ethnicity data collection, and maintenance for 3 years;
- 7) complaint processing; and
- 8) training.

# Special Compliance Review

- A Special Compliance Review may be conducted by the USDA Office of the Assistant Secretary for Civil Rights Division staff and/or FNS when there are significant Civil Rights concerns which have a direct impact on the delivery of FNS program services and/or benefits.
- Statistical data indicates that a particular minority group is not participating in or benefiting from the Program to an extent indicated by the population potentially eligible to participate in or benefit from the Program.

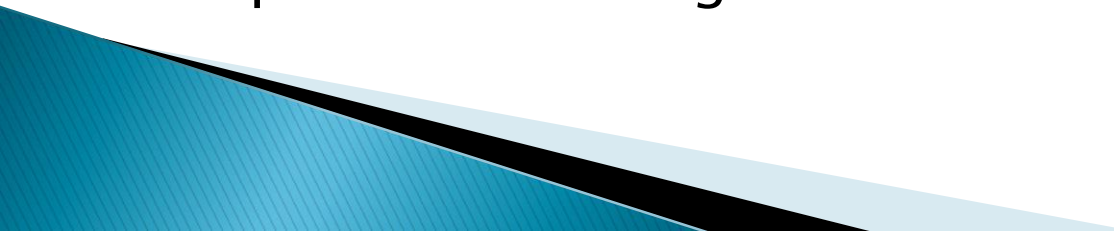
# Special Compliance Reviews

- ▶ May be scheduled or unscheduled;
- ▶ To follow-up on previous findings of noncompliance;
- ▶ To investigate reports of noncompliance by other agencies, media, or grassroots organizations;
- ▶ May be specific to an incident or policy;
- ▶ History of statistical underrepresentation of particular group(s);
- ▶ Pattern of complaints of discrimination.

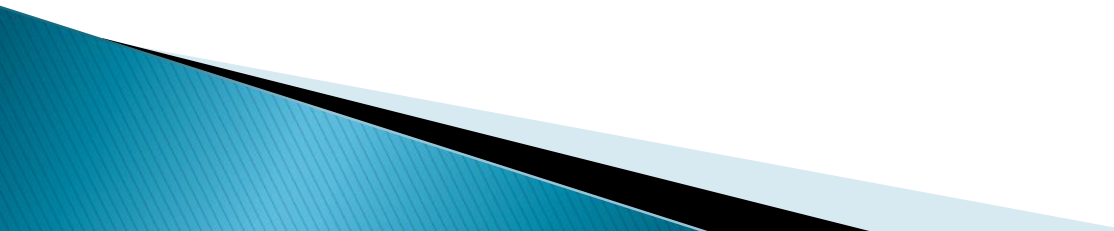
# Resolution of Noncompliance

- “Noncompliance”: A factual finding that any civil rights requirement, as provided by law, regulation, policy, instruction, or guidelines, is not being adhered to by a State agency, local agency, or other subrecipient.
- Steps must be taken immediately to obtain *voluntary* compliance.
- Effective date of the finding of noncompliance is the date of notice to the State agency, local agency, or other subrecipient.

# Voluntary Resolution Agreement

- A Voluntary Resolution Agreement (VRA) is an agreement that recipient(s) are willfully consenting to undertake remedial actions to address identified Civil Rights concerns or in violation with applicable Civil Rights laws and/or regulations.
  - The VRA may be between multiple parties such as the officials in authority to regulate civil rights laws (Food and Nutrition Service, Civil Rights Division, (FNS CRD)), recipient or sub-recipient (State agency or school), and program participant (Complainant).
  - Voluntary Resolution Agreements may be used to closeout a Civil Rights Review at the discretion of FNS CRD in lieu of issuing a written Civil Rights Review report with findings.
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# Why Civil Rights Training?

- ▶ Training helps ensure that individuals involved in all levels of administration of programs that receive Federal financial assistance understand Federal laws, regulations, instructions, policies and other guidance.
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# Civil Rights Training

*Specific subject matter required, but not limited to:*

- Collection and use of data;
- Effective public notification systems;
- Complaint procedures;
- Compliance review techniques;
- Resolution of noncompliance;
- Requirements for reasonable modifications for persons with disabilities;
- Requirements for language assistance;
- Conflict resolution; and
- Customer service.

# Civil Rights Training

- State agencies are responsible for training local agencies on an annual basis.
- Local agencies are responsible for training their subrecipients, including “frontline staff” who interact with applicants or participants on an annual basis.
- New employees before participating in Program activities
- Volunteers must receive training

# Civil Rights Training

- All staff should receive training on all aspects of civil rights compliance;
- Staff should be able to identify a civil rights complaint if received;
- They should know what to do if they receive a complaint;
- Understand that it is the basic right of the individual to file a complaint.

# Disability Access

What is the definition of *disability*?

- ▶ A person who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.
- ▶ Major life activity means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.
- ▶ Functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, and reproductive functions.

(ADA Amendments Act of 2008)

# Disability Access Continued

- As programs and offices modernize, it is imperative that websites, including State and local agency websites, and online application systems are readily accessible to and useable by persons with visual impairments and other disabilities.
- In addition, programs must ensure physical accessibility for buildings and facilities, particularly to persons in wheelchairs and with mobility disabilities.
- At times, different or special treatment may actually be necessary in order to ensure effective aids, benefits, and services are reasonable.

# MODIFICATIONS TO ACCOMMODATE DISABILITIES IN MEALS PROGRAMS

- ▶ Meal modification must be implemented without delay
- ▶ Training on modifications to accommodate disabilities on child nutrition meal programs is a required separate training
- ▶ The training must be given annually
- ▶ Please be sure the Special Dietary Medical Statement that is being distributed is the updated form, seen on the next page:
- ▶ [special-dietary-medical-statement-form-2018\\_2.pdf \(nh.gov\)](#)

# MEAL MODIFICATION FORM



Frank Edelblut  
Commissioner

Christine Brennan  
Deputy Commissioner

STATE OF NEW HAMPSHIRE  
DEPARTMENT OF EDUCATION  
101 Pleasant Street  
Concord, N.H. 03301

## SPECIAL DIETARY MEDICAL STATEMENT Please send to Student's School/Institution

Date:

Student Name: \_\_\_\_\_

### MEAL MODIFICATIONS MADE OUTSIDE THE MEAL PATTERN

(Accommodation that alters the USDA meal pattern; ex. fruit cannot be served to student)

Foods to be Avoided:

\_\_\_\_\_

Brief explanation of how exposure to this food affects the student:

\_\_\_\_\_

Recommended Substitute to this Food:

\_\_\_\_\_

Signature of Licensed Medical Professional \_\_\_\_\_ Printed Name of Licensed Medical Professional \_\_\_\_\_

### MEAL MODIFICATIONS MADE WITHIN THE MEAL PATTERN

(Accommodation within one of the 5 food items; ex. orange served instead of an apple)

Foods to be Avoided:

\_\_\_\_\_

Brief explanation of how exposure to this food affects the student:

\_\_\_\_\_

Recommended Substitute to this Food:

\_\_\_\_\_

Signature \_\_\_\_\_ Printed Name \_\_\_\_\_ Title \_\_\_\_\_

Please refer to Page 14 of USDA-FNS ACCOMMODATING CHILDREN WITH DISABILITIES IN THE SCHOOL MEAL PROGRAMS, JULY 25, 2017

Meal Pattern = Meat/Meat Alternate, Grain, Vegetable, Fruit and Milk

TDD Access: Relay NH 711  
EQUAL OPPORTUNITY EMPLOYER- EQUAL EDUCATIONAL OPPORTUNITIES  
This institution is an equal opportunity provider

# Who are persons with Limited English Proficiency (LEP)?

## Definition:

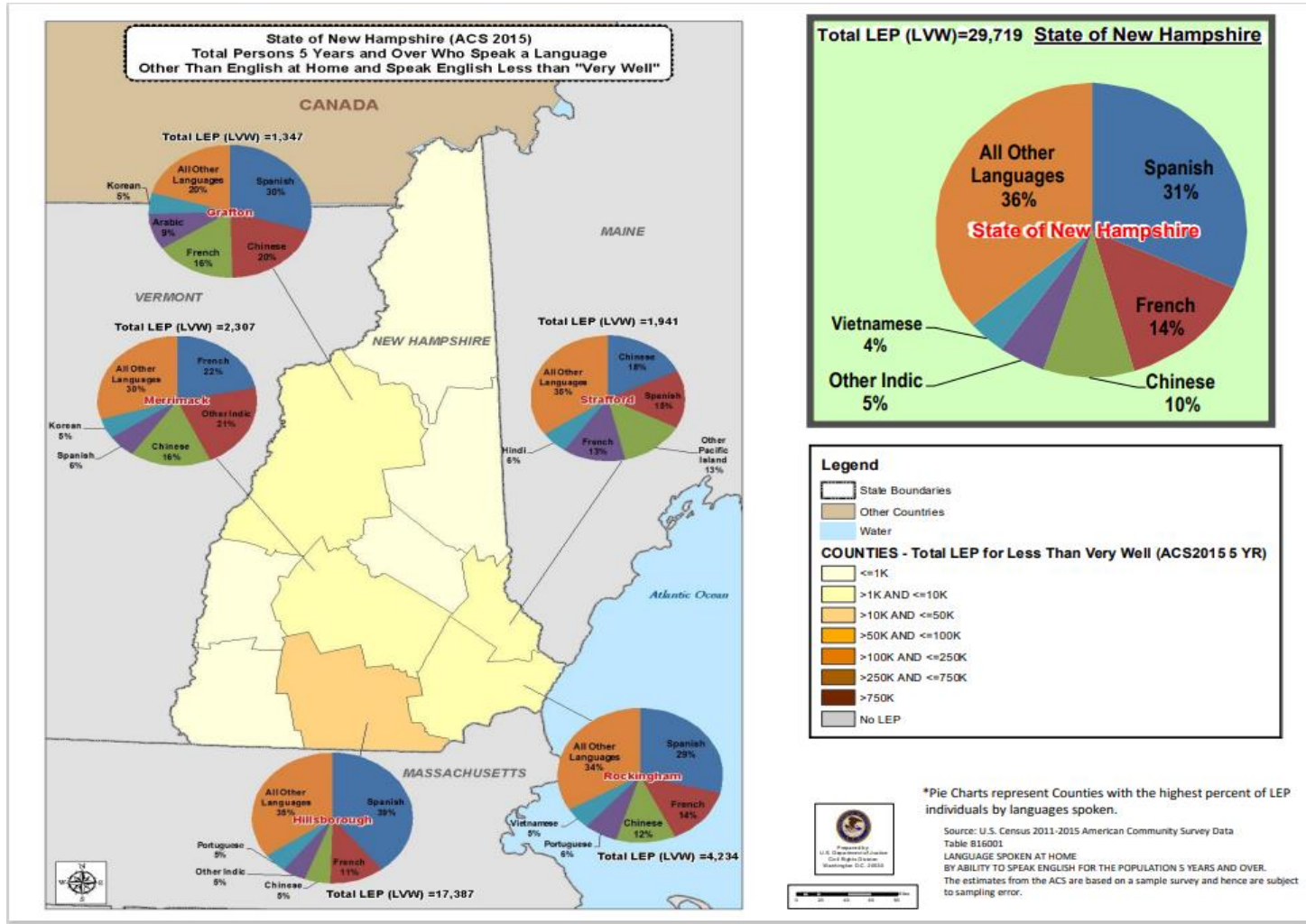
- Individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English.
- Recipients of Federal financial assistance have a responsibility to take “reasonable steps” to ensure meaningful access to their programs and activities by persons with Limited English Proficiency (LEP).



# LEP and Program Access

- Factors to consider in addressing LEP:
  - The number or proportion of LEP people eligible to be served or likely to be encountered by the program.
  - Frequency with which LEP individuals come in contact with the program.
  - Nature and importance of the program, activity, or service provided by the program.
  - Resources available to the recipient and **for** costs.
  - In NH, LEP is addressed through the Commission for Human Rights. 1-800-735-2964 or 1-603-271-2767

# NH LEP Data

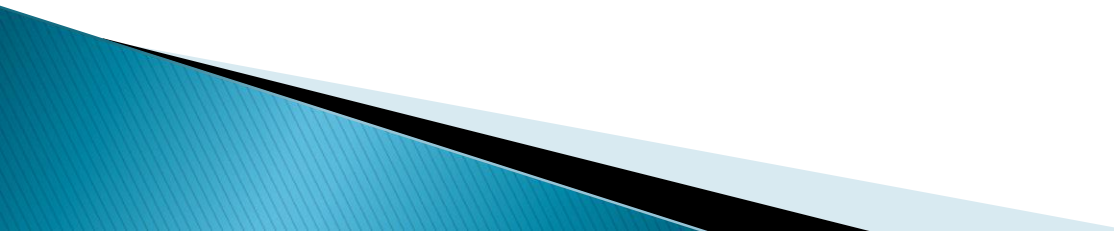


# Bilingual Requirements and Program Access Resources

- Population data sources
  - US Census Data
    - <http://www.census.gov/2010census/data/>
  - American Community Survey
    - <http://www.census.gov/acs/>
  - Migration Policy Institute's National Center on Immigrant Integration Policy
    - <http://www.migrationpolicy.org/>
  - LEP.GOV
    - <http://www.lep.gov/>
- ▶ NH Commission for Human Rights  
[humanrights@nh.gov](mailto:humanrights@nh.gov) or 603-271-2767



**What are your  
questions?**



# USDA Nondiscrimination Statement– Food and Nutrition Service

In accordance with federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, this institution is prohibited from discriminating on the basis of race, color, national origin, sex (including gender identity and sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print, audiotape, American Sign Language), should contact the responsible state or local agency that administers the program or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339.

To file a program discrimination complaint, a Complainant should complete a Form AD-3027, USDA Program Discrimination Complaint Form which can be obtained online at: <https://www.usda.gov/sites/default/files/documents/USDA-OASCR%20P-Complaint-Form-0508-0002-508-11-28-17Fax2Mail.pdf>, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:

1. **mail:**  
U.S. Department of Agriculture  
Office of the Assistant Secretary for Civil Rights  
1400 Independence Avenue, SW  
Washington, D.C. 20250-9410; or
2. **fax:**  
(833) 256-1665 or (202) 690-7442; or
3. **email:**  
[program.intake@usda.gov](mailto:program.intake@usda.gov)

This institution is an equal opportunity provider.

# Contact Information

- For more information:

USDA Food and Nutrition Service  
Office of Civil Rights, Northeast Region  
10 Causeway Street Room 501  
Boston, MA 02222

**OR**

NH Department of Education  
Office of Nutrition Programs and Services  
25 Hall Street  
Concord, NH 03301

- Or contact:

Federal: Steve Miliano  
Regional Civil Rights Officer  
[stephen.miliano@usda.gov](mailto:stephen.miliano@usda.gov)  
Office: (617) 565-6424  
FAX: (617) 565-6473

State: Kelly Rambeau  
Administrator, NH ONPS  
[kelly.a.rambeau@doe.nh.gov](mailto:kelly.a.rambeau@doe.nh.gov)  
Phone: 603-271-3860