



LEGAL TRENDS FOR FARM AND FOOD OPERATIONS IN THE NEW ENGLAND REGION

INTRODUCTION

Few sources of information identify the most common legal issues food system stakeholders face or address how attorneys can best serve food system stakeholders. Most data collection and analysis focus on farmers and either have limited response rates or are based on speculation that is nearly fifteen years old.¹ Nonetheless, these resources conclude attorneys need to gain legal skills that support farm and food operations, including land transition, entity formation, and how to manage liabilities with insurance.² Despite recognizing this need, significant barriers to meeting farmers' legal needs persist.³ Namely, many farmers distrust lawyers or are unable to pay for legal services.⁴ Food entrepreneurs' and food system organizations' legal needs are not as well documented, but their access may also suffer due to a shortage of rural lawyers.⁵ This gap in knowledge, understanding, and access to legal services poses a significant threat to the growth and viability of local and regional food systems given the prevalence of legal issues affecting food system stakeholders.⁶

As a means of filling these information gaps, the Legal Food Hub has gathered data in the New England region to identify common legal issues facing farm and food stakeholders. The Legal Food Hub connects farmers, food entrepreneurs, and food system organizations with free legal services from a participating network of attorneys with expertise in legal practice areas affecting these groups.⁷ Conservation Law Foundation created the program to bridge the legal and farming communities by providing attorneys with resources and training to help tailor their expertise in practice areas such as real estate, business entity formation, and contracts to the unique legal needs and circumstances of food and farm businesses. Simultaneously, the program increases access to legal services and education for underserved farmers and food entrepreneurs. Currently, legal food hubs exist in Connecticut, Maine, Massachusetts, Rhode Island, and Vermont.

Across the United States, organizations like Farm Commons, the National Agricultural Law Center (NALC), and Farmers' Legal Action Group (FLAG) seek to educate farmers, attorneys, and other food system stakeholders on legal issues related to the food system. Farm Commons has been operating since 2012 and serves as an educational resource for farmers and on-farm businesses, producing legal guides and other educational resources on topics such as entity formation, insurance, and land matters.⁸ FLAG has been in operation since the 1980s farm crisis and focuses on assisting farmers with access to land, disaster aid, and other related legal topics. In addition to focusing on farmers, NALC develops resources with lawmakers, attorneys, and academics in mind.⁹ The work done by these groups affirms many of the trends documented by Legal Food Hub data, namely the high demand among the farming community for legal services related to entity formation, real estate, and contracts. However, the Legal Food Hub focuses broadly on a range of food system stakeholders, from farmers to food businesses to the organizations that support them, and is unique in its ability to meet local needs while identifying and responding to regional and national issues through generally applicable educational resources and trainings.

In addition to connecting food and farm stakeholders with volunteer attorneys, the Hub also develops written resource guides and offers trainings for food system stakeholders, all of which are available through a free, online resource library.¹⁰ These resources aim to provide food system stakeholders with access to legal educational materials addressing issues including how to select the right legal entity or how to access COVID-19 relief funds. The Hub also develops resources and trainings for attorneys, providing context and nuance to expand on their expertise and inform their work with food and farm clients. In turn, this helps support a deeper knowledge base for this growing legal sector. The provision of direct legal services coupled with educational programming enables the Hub to identify the most common and systemic legal issues arising in the food and farm sector.

This report analyzes cases placed through the Hub and use of its online resource library to document recurring legal issues and to relate these regional trends to national findings. Based on this analysis, the report identifies needs for additional legal support. First, the report considers data related to clients placed with attorneys in the Hub's pro bono network to identify trends in the legal assistance participants seek. This section analyzes both who is seeking out legal services, considering participant category—farmer, food entrepreneur, or food system organization—and demographics, and discusses common legal issues. Next, the report considers use of the Hub's resource library, comparing the use of different resources to the legal services sought by the Hub participants to identify trends and gaps in popular and useful educational resources. The report concludes with a set of recommended actions designed to help meet the legal needs of food and farm stakeholders and contribute to the growth and long-term viability of the New England food system and beyond.

Caveat: Data Limitations

This report analyzes data the Hub collects from participants, and there may be gaps or anomalies due to the initial lack of standardization in data collection across states. Even with improvements in standardizing data collection since the initial launch of the Hub, limits still exist on demographic data, with only approximately 66 percent and 35 percent answering the demographic questions regarding gender and race, respectively.

Caveat: COVID-19

The public health pandemic has drastically impacted every sector of our economy, including food and agriculture. The added economic stress and uncertainty from the pandemic likely impacted the number of farmers and food entrepreneurs reaching out proactively for legal assistance in 2020.

FOOD SYSTEM LEGAL TRENDS OBSERVED THROUGH LEGAL FOOD HUB CASE PLACEMENT

Overview

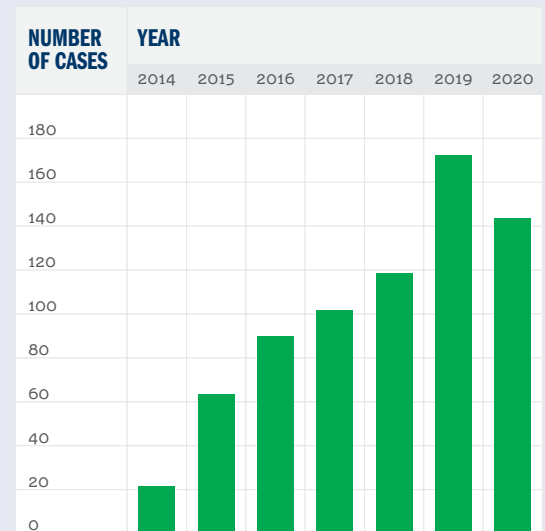
The Legal Food Hub connects eligible participants with attorneys who provide pro bono services for transactional, or business-related, legal matters. Since its inception in 2014, the Hub has placed cases for nearly 500 clients across five states, translating to more than 3.8 million dollars in pro bono legal services.¹¹ For these approximately 500 clients, the Hub has placed over 700 cases since 2014, meaning that a high number of participants have had multiple cases placed through the Hub's network.

Of those clients, 51 percent were farmers, 25 percent were food entrepreneurs, and 24 percent were nonprofit or community organizations.

Applicants qualify for free legal services through the Hub if their income, legal issue, and classification as a farmer, food entrepreneur, or food system organization meet the program eligibility criteria.¹² If the participant is eligible, the Hub connects the participant with a qualified attorney who has the relevant subject matter expertise and has agreed to take the case pro bono. On average, the Hub places cases in just over two weeks after initial contact from a participant. At the conclusion of the matter, if both attorney and participant are willing, the Hub drafts a case study featuring the participant and attorney with information about the legal issues and how the matter was resolved.¹³ These case studies aim to broaden community understanding of both the types of legal issues presented as well as engender trust by presenting the important role attorneys play in building a vibrant regional food system.

FIGURE 1

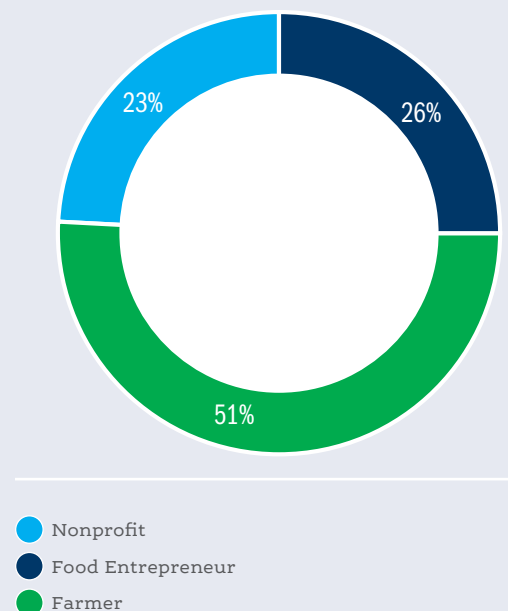
Legal Food Hub Cases Placed
2014 – 2020



The Hub has placed over 700 cases since 2014.

FIGURE 2

Legal Food Hub Participants
by Category



The Hub’s pro bono network is a valuable resource for the regional food system at large. It connects small-scale farmers, food entrepreneurs, and related organizations to legal assistance they might not normally access. According to the most recent US Department of Agriculture’s Census of Agriculture, average net cash income for farms nationwide is only \$43,053.¹⁴ Vermont’s average net cash income for farms is the highest in the New England region, yet at \$26,215, it falls well below the national average.¹⁵

STATE	AVERAGE NET CASH INCOME	NUMBER OF FARMS
Maine	\$16,958	7,600
Massachusetts	\$7,859	7,241
Rhode Island	\$5,496	1,043
Connecticut	\$14,941	5,521
Vermont	\$26,215	6,808

While lawyers in Vermont and Maine are within the lowest tier of average wages compared to other parts of the country,¹⁶ even a relatively modest hourly rate of \$100 per hour may be unworkable for many farmers and beginning food businesses.¹⁷ In addition to the financial barriers preventing farmers from seeking legal help, other barriers include a lack of trust in lawyers coupled with the perception that legal services are not helpful or necessary.¹⁸ The Hub is actively working to build trust and demonstrate the value of legal services among the food and farming community. Given the steadily increasing demand for legal services, progress in meeting this goal is apparent.

Affordable and accessible legal services are critical for the food and farm sector to continue to modernize, meet growing demand for locally grown and produced products, and achieve financial viability as business ventures.¹⁹ Legal services related to entity formation, land transfer and acquisition, and contract services have been increasingly important in order for small- and medium-sized farmers and food entrepreneurs to build successful businesses. Choosing and forming a formal legal entity protects the people behind the food or farm business from liability, both financial and legal. As farms transition ownership and operations, legally binding agreements to transfer land in a satisfactory way for all parties is crucial. Farms and food entrepreneurs continue to diversify their products and services while scaling up to access new markets, which creates the need for trademarks and compliance with state and federal food safety labeling and marketing requirements. In addition to providing these types of legal services, the Hub also provides opportunities for attorneys to grow their expertise in these emerging areas, build trust with the farm and food sector, and develop long-term client relationships.

Who is Seeking Legal Assistance?

The Hub's services are available to three categories of participants: food entrepreneurs, farmers, and food system organizations.²⁰

In most states, farmers seek legal assistance through the Hub more than the other two participant categories; Maine and Vermont have the highest proportion of farmer participants at 68 percent and 61 percent of cases, respectively.²¹

Massachusetts is the only state where farmers are not the leading participant group. However, farmer participants did make up most cases placed in 2019 and a sizable number of nonprofit participants in the state are educational farms.

Each year, the number of food entrepreneurs seeking legal assistance increased, while demand from organizations and community groups remained steady. The ongoing COVID-19 pandemic and its associated economic impacts have likely decreased farmers' and entrepreneurs' participation in 2020. On the other hand, there has been a minor increase in nonprofits seeking assistance in 2020.

The Hub strives to function as a resource accessible to all stakeholders working in the New England food system. Notably, 60 percent of food entrepreneurs and nearly 70 percent of nonprofit participants placed with Hub attorneys identify as female. Farmer participants are primarily male, but not overwhelmingly; just over 53 percent of participants who responded identified as male.

Recent data from the 2017 Census of Agriculture show that a strong majority of producers on New England farms are female, compared with only 36 percent of producers nationally.²² No county in the New England region drops below 50 percent female producers, and some counties reach over 80 percent.²³ This data suggest that the Hub farmer participant pool may be overrepresenting male producers. To ensure greater access to legal services by all farmers, the Hub will need to pursue outreach opportunities and methods that better engage female producers.²⁴

FIGURE 3A

Total Legal Food Hub Cases by Participant Category

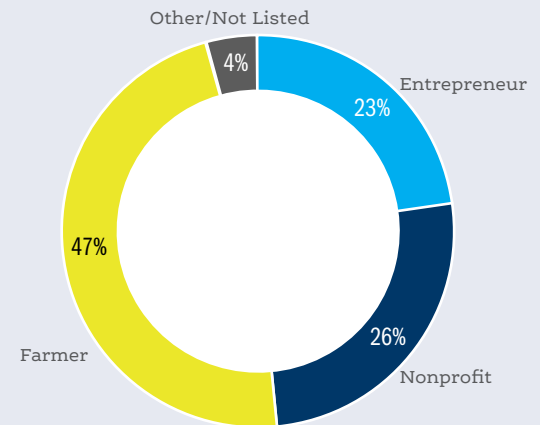


FIGURE 3B

Total Legal Food Hub Cases in Each State by Participant Category

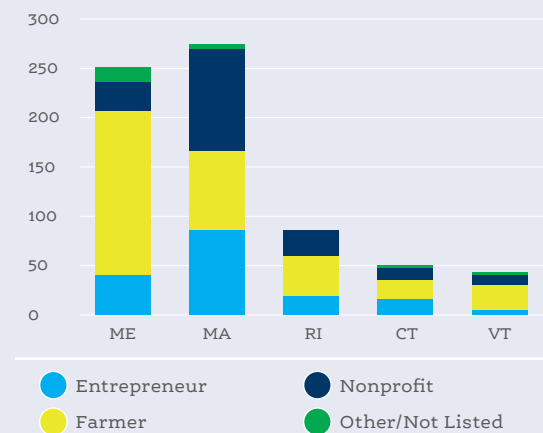
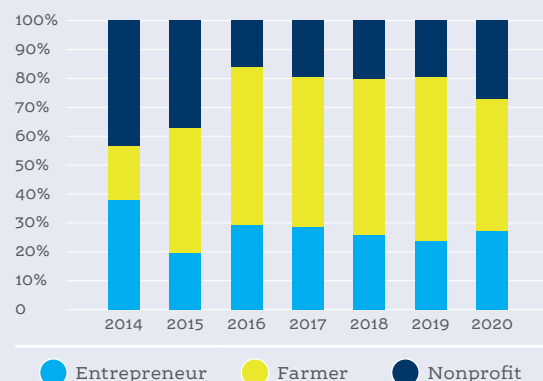


FIGURE 3C

Participants Placed Each Year by Category



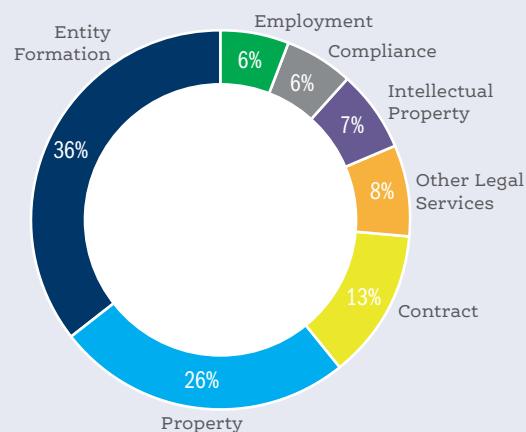
What Legal Issues are Most Common?

As discussed above, the Hub has placed 708 cases covering a range of legal topics. These placements fall across seven primary legal issue areas: property, contracts, entity formation, employment, compliance (which includes regulatory and tax matters), intellectual property, and other (which includes non-transactional issues like litigation, family law, and dispute resolution).²⁵ The type and frequency of specific issues within these categories are discussed in more detail below.

Nearly 75 percent of all cases placed involve entity formation, property, or contract issues. The other four issue areas—employment, compliance, intellectual property, and other—each have less than 50 cases placed since the Hub’s inception. Approximately 80 percent of property cases were farmer placements, an understandable trend given that agricultural operations require land, whether leased or owned. Food entrepreneurs made up 68 percent of intellectual property cases, which include trademark issues. Similarly, this trend is understandable given the need food entrepreneurs face to build a consumer base around a distinct and recognizable product, and then to protect and promote their brand through trademarks.

FIGURE 5

Cases by Legal Issue Area



COVID-19 Impacts on Legal Needs

There has been a slight decrease in demand for legal services in 2020, likely due to the ongoing effects of the COVID-19 pandemic. However, needs remain strong in some key legal issue areas. For example, supply chain disruptions during the early days and months of the pandemic left gaps that local food and farm entrepreneurs filled to meet demand for local food.²⁶ As a result of a pivot in business structure and operation, or the quick creation of a food distribution enterprise, requests for assistance with entity formation and contracts during the pandemic have continued at a rate similar to 2019.²⁷ This data point suggests that even though the food system has faced significant impacts during the pandemic, some legal services remain in high demand as the regional food system responds to the challenges and opportunities the pandemic has presented.

Variation in Legal Needs by Participant Category

The most common legal issues vary depending on whether the participants are food entrepreneurs, farmers, or food system organizations.²⁸ Across all participant groups, however, entity formation is the most sought-after legal service. The demand for entity formation assistance has been consistent since 2015. This demand could be attributed both to the growth in local and regional food systems and the increased legal knowledge of the farm business sector, for example, small farms opting not to start as sole proprietorships, or transitioning from a sole proprietorship to a Limited Liability Company (LLC) to protect the farmer from personal liability.²⁹ The 2017 Census of Agriculture corroborates this trend in part, with data demonstrating a shift towards family-owned corporations and away from sole proprietorships that has been slowly advancing for nearly two decades.³⁰

As discussed above, farmers make up the largest portion of Hub participants, and have the widest variety of legal needs, with a majority of their cases relating to entity formation and property issues.³¹ Nonprofits, outside of their entity formation needs, also seek legal services related to contract drafting and review, property, and employment.³² Food entrepreneurs primarily seek legal services related to entity formation, contracts, and intellectual property.³³ Although nearly 75 percent of Hub cases fall within the three main categories of property, contract services, and entity formation, participants have been seeking out a wider range of legal assistance.³⁴ In general, these trends are constant across states, with entity formation most commonly sought in each state, followed by property law issues.

Increase in Variety of Legal Needs

In 2019 alone, the Hub placed 170 cases. That year, contracts, property, and entity formation comprised a smaller percentage of total cases—65 percent—as compared to the composition of all cases placed since the launch of the first Hub in 2014. The increasing variety of legal services placed each year demonstrates the complexity of many farm and food operations, including increasing awareness of compliance obligations, particularly new food safety requirements that farms and food businesses are subject to under the Food Safety Modernization Act³⁵ or evolving state cottage food laws.³⁶

FIGURE 6

Distribution of Legal Issues by Participant Category

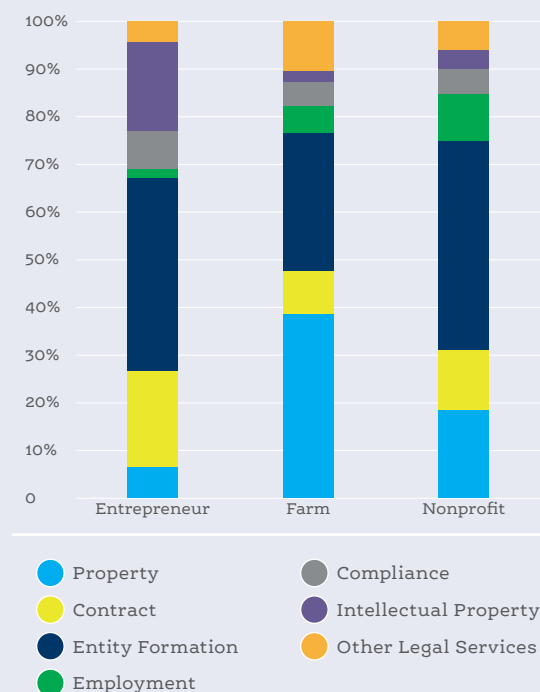


FIGURE 7A

Cases Placed Annually by Legal Issue



FIGURE 7B

Distribution of Legal Issues by Year

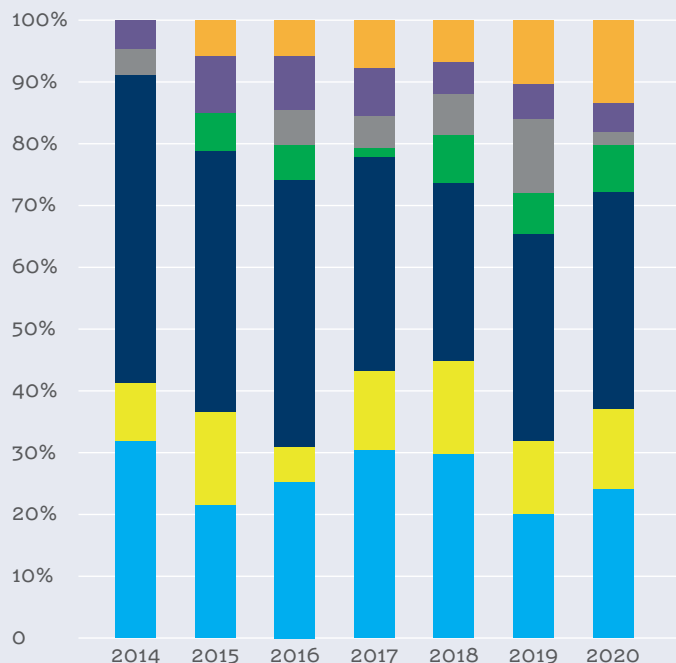
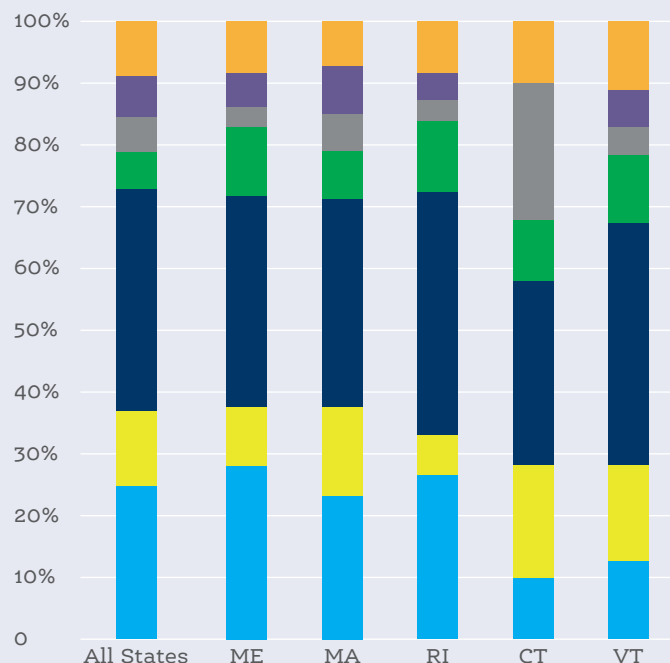


FIGURE 7C

Distribution of Legal Issues by State



Outreach and Building Trust

The breadth of requests for legal services also suggests the Hub has been gaining trust and recognition among regional food system stakeholders. As discussed above, surveys and data have shown that farmers tend to distrust lawyers and assume that legal services will not help their businesses.³⁷ The Hub's continued investment in outreach and educational resources for food and farm businesses, in addition to connecting these businesses with attorneys, may be increasing their trust in the legal system. If this trend continues and the Hub continues to earn trust among food system actors, the broader legal sector may benefit as well. By decreasing barriers to legal services and increasing participants' comfort and familiarity working with attorneys, the Hub is bridging the gap between the farm, food, and legal sectors.

Diversifying Property Law Needs

Property law placements plateaued in 2019-2020, possibly due to the economic recession related to the COVID-19 pandemic, as discussed above.³⁸ The most utilized legal services relating to property are real estate services and land leases, but these services have seen either a decrease or stagnation in demand since 2018.³⁹ However, hidden within this general trend of decreasing use in the two most common services is, again, a diversification of the services sought by participants. Easements and land use services have seen a significant increase in demand over the past two years. While some of this increase may be due to more sophisticated data collection methods, it also speaks to the significant amount of land transferring hands as farmers retire,⁴⁰ and the increasingly popular use of conservation easements as a tool to not only protect land from development, but also provide an innovative option to transfer the land to a new farmer.⁴¹ Property-related legal services have also formed a significantly lower proportion of cases placed in Vermont and Connecticut, illustrating that, while there are many common legal issues across food system stakeholders, there are also localized differences that require different legal expertise.⁴²

The economic uncertainty created by the pandemic likely makes it an unattractive time to purchase or expand a farming operation, which counters some recent headlines regarding rural property sales.⁴³ Even with a decrease in the number of property-related cases, property still represents an area that will produce need for legal services, from innovative models to transfer land to the next generation of farmers to making sure land leases and easements are drafted in ways that meet each party's needs.

FIGURE 8A

Distribution of Property Law Cases Placed By Year

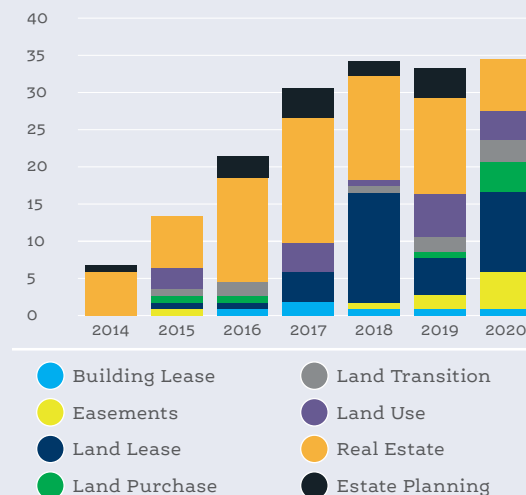
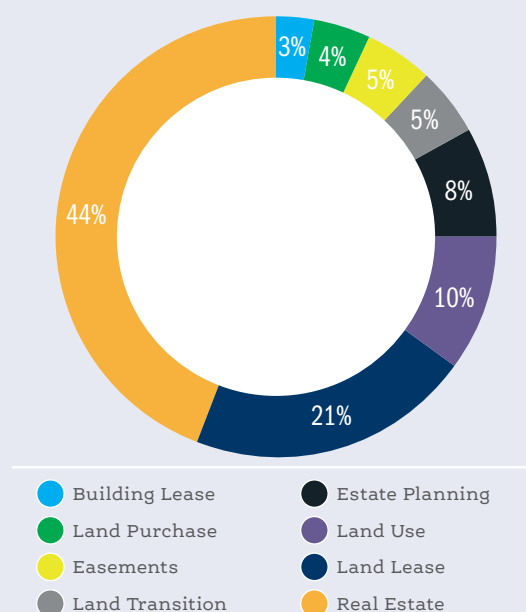


FIGURE 8B

Property Law Cases: 2014-2020



Other Legal Services

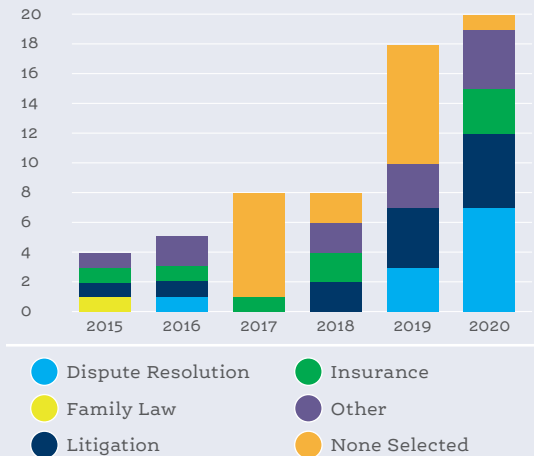
One legal service that has seen a significant increase is dispute resolution, with just a single case placed between 2014 and 2018 and nine cases placed in 2019-2020.⁴⁴ This increase may be related to COVID-19, or it may reflect greater exposure to legal assistance since the Hub's launch, resulting in food system actors that are more comfortable seeking out an attorney to help resolve an issue before resorting to litigation. Dispute resolution cases have involved issues such as wearing masks at a farm stand, navigating business relationships between partners, and potential copyright infringements.

EDUCATIONAL RESOURCES FOR FOOD AND FARM STAKEHOLDERS

In addition to helping participants connect with volunteer attorneys, the Hub also provides food and farm stakeholders with access to free educational resources on various legal issues. The most commonly viewed resources align with the most common legal cases placed through the Hub, suggesting that participants are educating themselves on legal topics before being connected with an attorney. These include pages that relate to employment disputes, as well as entity formation and other regulatory and operational requirements of for-profit and nonprofit businesses. This is certainly the intent behind the library: that it complements, but does not replace, direct legal assistance. Based on the analysis of Hub placements, contracts are a common legal topic for participants. However, the Hub does not have many resources on this topic. More resources that address contract formation and dispute resolution, the most common contract issue among participants, would benefit food and farm stakeholders in the region and beyond.

FIGURE 9

Cases Placed Involving Other Legal Services 2015–2020



CONCLUSION AND RECOMMENDATIONS

The Legal Food Hub is responding to the regional food system's need for legal assistance and education, while also working to increase trust in the legal system. Without trust in the system, food system stakeholders are likely to find themselves interacting with lawyers well after problems have occurred, when litigation or foreclosure may be the only option, rather than taking proactive steps to protect or enhance the viability of their farms and businesses. The Hub does this by not only producing educational resources for stakeholders, but also providing training and information to attorneys about the legal issues and opportunities within the growing food system. The data presented in this report help illustrate regional trends, but there is much more to do and to learn about the legal needs of food system stakeholders. 2020 presented our food system with unexpected hurdles. Even with the Hub's slight decrease in demand in 2020, it is undeniable that demand for and use of pro bono legal assistance has increased since the Hub's inception in 2014 and attorneys in the network are working with participants on a wider variety of legal issues. There is significant demand for pro bono legal services among food system actors in every state in the region; the Hub's capacity at the state-specific and region-wide level is key to identifying and meeting that demand.

The following recommendations consider not only improvements to the Hub's operation and services, but also broader recommendations to support food and farm stakeholders located beyond the New England region.

- 1. Continue to develop educational resources and attorney trainings in key legal issue areas.** The most common legal issues identified by Hub participants include entity formation, property and land matters, and contracts. As the food system continues to evolve and mature, these topics will continue to grow in relevance, and it is critical that sufficient educational resources exist. For food system stakeholders, resources discussing the protections contracts provide and the peculiarities of agricultural labor law are particularly needed. Moreover, attorneys will require additional training on the unique food and farm considerations regarding, in particular, land transfer and acquisition and entity formation to best be of service to the food system.
- 2. Increase understanding of food system legal needs through national data collection.** Data on the legal needs of farm and food system stakeholders is not being collected at the national level, or even at the state or regional level except for the where the Legal Food Hub or other similar organizations operate. To alleviate significant gaps in data regarding farmers', food entrepreneurs', and food system organizations' utilization of legal services, further research is needed to understand current access to legal services and where gaps exist. One way to gather this information would be to add a question to subsequent USDA Censuses of Agriculture.⁴⁵
- 3. Invest in the development of similar pro or low bono services nationwide.** The Legal Food Hub model has been effective where it operates in the New England region; however, its reach is limited. Several law school legal clinics directly serve the food system⁴⁶ or offer entrepreneurial or community development transactional business services. Food and farm stakeholders in all states would benefit from the availability of low- or no-cost legal counseling. As one possibility, Congress and the USDA could invest in establishing agricultural legal service entities nationwide, similar to the funding appropriated for Agricultural Mediation Programs in all states.⁴⁷
- 4. Enhance Legal Food Hub operations and services.** The Legal Food Hub should continue to grow and respond to the region's legal needs. To do this, the Hub should strategically reach out to, and build trust among, underrepresented populations; continue to improve the capacity of the attorney network; and continue to expand the educational resources available. All of these activities require investment: investment in a strong in-state presence to deepen existing and establish new relationships with the various local actors in each state's food system to make it easier to reach underserved communities; investment in the Hub's capacity to conduct ongoing attorney recruitment and increase the size of the volunteer network and the variety of legal issues that can be addressed; and investment in developing and producing high-quality and timely educational resources for attorneys and stakeholders alike. An initial focus for resource development could be on topics that are common among participants but not yet available, such as contract formation and dispute resolution.

ACKNOWLEDGMENTS

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National Agricultural Library
U.S. DEPARTMENT OF AGRICULTURE

About the Center for Agriculture and Food Systems

Vermont Law School's Center for Agriculture and Food Systems (CAFS) uses law and policy to build a more sustainable and just food system. In partnership with local, regional, national, and international partners, CAFS addresses food system challenges related to food justice, food security, farmland access, farmworkers' rights, animal welfare, worker protections, the environment, and public health, among others. CAFS works closely with its partners to provide legal services that respond to their needs and develop resources that empower the communities they serve. Through CAFS' Food and Agriculture Clinic and Research Assistant program, students work directly on projects alongside partners nationwide, engaging in innovative work that spans the food system. Visit www.vermontlaw.edu/cafs to learn more.



In its role as administrator of the Vermont Hub, CAFS prescreens applicants for issue and income eligibility and works with the attorney network to find an appropriate placement. For more information about how the Vermont Hub operates, please contact us by emailing LegalHub@vermontlaw.edu.

About the Legal Food Hub

Because of the lack of legal services accessible to small-scale farmers and food entrepreneurs who participate in local and regional food systems, Conservation Law Foundation (CLF) created the Legal Food Hub (Hub). The Hub brings together attorneys in participating states who want to provide pro bono legal assistance to farmers, food entrepreneurs, food and farm nonprofits, and food justice-oriented community organizations. The Hub not only serves to connect attorneys to clients but also, through this guide and other resources, seeks to supply resources for attorneys as they provide legal counsel to this potential new group of clients. For more information about the Legal Food Hub in other states, visit <http://www.legalfoodhub.org>.

In Vermont, the Legal Food Hub operates as a joint initiative between CLF and Vermont Law School's Center for Agriculture and Food Systems (CAFS). Unlike the Hubs in other states, CAFS serves as the primary administrator of the Vermont Hub and operates the Vermont Hub out of Vermont Law School, with CLF providing advisory support. Together, the organizations are building a network of participating attorneys, conducting outreach to potential food and farm clients, and developing and providing educational resources for participants and food system stakeholders on a variety of food and agriculture law topics.

About Conservation Law Foundation

CLF is a nonprofit environmental advocacy group based in New England. CLF believes that a thriving New England means a thriving local food system, as the region's communities, environment, and economy depend on it. CLF's Farm and Food Initiative is building on CLF's long track record of successful policy reform in New England by developing and advancing local, state, regional, and national policy reforms that better support farm and food enterprises and reduce legal hurdles for sustainable agricultural production in New England. CLF works with farmers, food entrepreneurs, consumers, and other stakeholders to provide the legal and policy scaffolding to construct a robust regional food system.



Disclaimer

This guide provides general legal information for educational purposes only. It is not meant to substitute, and should not be relied upon, for legal advice.

ENDNOTES

- 1 See e.g. A. Bryan Endres et. al., The Legal Needs of Farmers: An Analysis of the Family Farm Legal Needs Survey, 71 Mont. L. Rev. 135 (2010); Neil D. Hamilton, This is not your Grandpa's Farm Law: Cutting Edge Legal Issues in Agriculture Today, Farmers' Legal Action Group (June 12, 2006) http://www.flaginc.org/wp-content/uploads/2013/03/CLE_NH.pdf; Rachel Armstrong, Business as Unusual: Building the New Food Movement with Business Law, Yale Ctr. for Envtl. L. & Pol'y (Nov. 20, 2013), <http://vimeo.com/80411482>.
- 2 A. Bryan Endres et. al., The Legal Needs of Farmers: An Analysis of the Family Farm Legal Needs Survey, 71 Mont. L. Rev. 135, 154 (2010); Neil D. Hamilton, This is not your Grandpa's Farm Law: Cutting Edge Legal Issues in Agriculture Today, Farmers' Legal Action Group (June 12, 2006) http://www.flaginc.org/wp-content/uploads/2013/03/CLE_NH.pdf; Rachel Armstrong, Business as Unusual: Building the New Food Movement with Business Law, Yale Ctr. for Envtl. L. & Pol'y (Nov. 20, 2013), <http://vimeo.com/80411482>, at 2:35-4:18.
- 3 A. Bryan Endres et. al., The Legal Needs of Farmers: An Analysis of the Family Farm Legal Needs Survey, 71 Mont. L. Rev. 135, 149-50 (2010)
- 4 Id.
- 5 See, e.g. Wendy Davis, No Country for Rural Lawyers: Small-town attorneys still find it hard to thrive, Am. Bar Ass'n J. (Feb. 1, 2020); see also Legal deserts threaten justice for all in rural America, Profile of the Legal Profession, Am. Bar Ass'n (Aug. 3, 2020).
- 6 Rachel Armstrong, Business as Unusual: Building the New Food Movement with Business Law, Yale Ctr. for Envtl. L. & Pol'y (Nov. 20, 2013), <http://vimeo.com/80411482>, at 2:35-4:18; Neil D. Hamilton, This is not your Grandpa's Farm Law: Cutting Edge Legal Issues in Agriculture Today, p 2, Farmers' Legal Action Group (June 12, 2006) http://www.flaginc.org/wp-content/uploads/2013/03/CLE_NH.pdf.
- 7 Home – Legal Food Hub, <https://www.legalfoodhub.org/> (last visited Dec. 11, 2020)
- 8 About | Farm Commons, <https://farmcommons.org/about> (last visited Jan 7, 2021)
- 9 About the Center – National Agricultural Law Center, <https://nationalaglawcenter.org/about-the-center/> (last visited Jan 7, 2021)
- 10 Resource Library – Legal Food Hub, <https://www.legalfoodhub.org/resource-library/> (last visited Dec. 11, 2020)
- 11 Legal Food Hub Annual Report, <https://annualreport.legalfoodhub.org/> (last visited Dec. 11, 2020)
- 12 Legal Food Hub Eligibility Criteria: 1. The farm or food enterprise must have annual revenue of at least \$5,000 in the prior tax year or have started operating within the last three years; and 2. The farm or food enterprise's net annual sales must not exceed \$30,000; and 3. The farmer or food entrepreneur's annual household income must not exceed 400 percent of federal poverty guidelines.
- 13 Stories and Profiles Archives – Legal Food Hub, <https://www.legalfoodhub.org/category/stories-and-profiles/> (last visited Dec. 17, 2020)
- 14 USDA, NAT'L AGRIC. STATISTICS SERV., CHAPTER 1, TABLE 5 – NET CASH FARM INCOME OF THE OPERATIONS AND PRODUCERS: 2017 and 2012 National Average (last visited Nov. 24, 2020), https://www.nass.usda.gov/Publications/AgCensus/2017/Full_Report/Volume_1,_Chapter_1_US/st99_1_0005_0006.pdf [Hereinafter 2017 Ag Census].
- 15 2017 Ag Census, CHAPTER 1, TABLE 5 – NET CASH FARM INCOME OF THE OPERATIONS AND PRODUCERS: 2017 and 2012 State Levels (last visited Nov. 24, 2020), https://www.nass.usda.gov/Publications/AgCensus/2017/Full_Report/Volume_1,_Chapter_1_State_Level/Vermont/st50_1_0005_0006.pdf.
- 16 Occupational Employment and Wages, May 2019: Lawyers, <https://www.bls.gov/oes/current/oes231011.htm#st> (last visited Dec. 11, 2020)
- 17 See e.g. 2020 Attorney Hourly Rate Report - 2019 was a Record Breaking Year; 2020 Expected to Be Higher on Average by 3-6% <https://apnews.com/press-release/pr-businesswire/9225a393cc894294aa62658f2d0d43d9>
- 18 A. Bryan Endres et. al., The Legal Needs of Farmers: An Analysis of the Family Farm Legal Needs Survey, 71 Mont. L. Rev. 135, 149-50 (2010); see also Rachel Armstrong, Business as Unusual: Building the New Food Movement with Business Law, Yale Ctr. for Envtl. L. & Pol'y (Nov. 20, 2013), <http://vimeo.com/80411482>.
- 19 Local Foods Marketing Practices Highlights, https://www.nass.usda.gov/Publications/Highlights/2016/LocalFoodsMarketingPractices_Highlights.pdf (In 2015, 167,009 farms sold \$8.7 billion in edible food directly to consumers, retailers, institutions, and local distributors."); see also 2017 Ag Census, https://www.nass.usda.gov/Publications/AgCensus/2017/Full_Report/Volume_1,_Chapter_1_US/st99_1_0072_0072.pdf at 118 (Food sold direct to consumers, retail markets, institutions, and food hubs totaled \$11.8 billion in 2017).
- 20 See Figure 3.
- 21 See Figure 4a.
- 22 2017 Ag Census https://www.nass.usda.gov/Publications/AgCensus/2017/Full_Report/Volume_1,_Chapter_1_US/st99_1_0052_0052.pdf.
- 23 2017 Ag Census, https://www.nass.usda.gov/Publications/AgCensus/2017/Online_Resources/Ag_Census_Web_Maps/index.php (last visited Dec. 11, 2020) (The lowest rate is found in Barnstable County, MA at 51% and the highest in Cheshire County, NH at 81%.)
- 24 Given the limitations of the racial demographic data, and that a non-binary response was only recently added to the gender questionnaire participants submit during case intake, racial and non-binary demographics are not discussed in this report. However, new recommended data entry protocols should address this issue moving forward.
- 25 See Figure 3.
- 26 William Masters, COVID-19 Impacts on Agriculture, Food, and Nutrition, Econofact (Apr. 20, 2020), <https://econofact.org/covid-19-impacts-on-agriculture-food-and-nutrition> (discussing the significant increase of demand for SNAP and other food assistance due to COVID impacts on the service industry); Meryl Braconnier, Vermont food shelves on front lines of Covid-19 crisis, VTDigger (Apr. 14, 2020), <https://vtdigger.org/2020/04/14/vermont-food-shelves-on-front-lines-of-covid-19-crisis/> (Discussing the increased demand and use of food shelves due to the COVID pandemic); Liz Crampton, Coronavirus has more Americans turning directly to farms for food, Politico (Mar. 31, 2020, 1:45 PM), <https://www.politico.com/news/2020/03/31/coronavirus-demand-for-local-farms-157538>.
- 27 In 2019, there were 58 cases dealing with entity formation and 20 with contracts; in 2020 there were 52 and 19, respectively.
- 28 See Figure 6.
- 29 See Figures 7a and 7b.
- 30 2017 Ag Census, https://www.nass.usda.gov/Publications/AgCensus/2017/Full_Report/Volume_1,_Chapter_1_US/usv1.pdf page 16 (figure 8. Farms by Legal Status – Percent of Total)
- 31 See Figure 6.
- 32 Id.
- 33 Id.
- 34 See Figures 7a and 7b.
- 35 See e.g. 21 C.F.R. Part 112, Part 118.

- 36 Food Law and Policy Clinic at Harvard Law School, Cottage Food Laws in the United States (Aug. 2018), https://www.chlpi.org/wp-content/uploads/2013/12/FLPC_Cottage-Foods-Report-August-2018.pdf.
- 37 A. Bryan Endres et. al., The Legal Needs of Farmers: An Analysis of the Family Farm Legal Needs Survey, 71 Mont. L. Rev. 135, 148-49 (2010).
- 38 See Figure 8.
- 39 See Figure 8.
- 40 USDA ERS – Land Acquisition and Transfer in U.S. Agriculture, <https://www.ers.usda.gov/amber-waves/2016/august/land-acquisition-and-transfer-in-us-agriculture> (last visited Dec. 15 2020).
- 41 American Farmland Trust, Maximizing the Economic and Environmental Benefits of ACEP-ALE, https://farmland.org/wp-content/uploads/2020/11/AFT-Maximizing_the_Economic_and_Environmental_Benefits_of_ACEP-ALE.pdf (last visited Jan 12, 2021) (“the sale of an agricultural conservation easement serves not just to protect land, but also enables a farmer, rancher, or landowner to reinvest in their operation, reduce debt, fund retirement, or transfer the land to the next generation of producers. As many producers and landowners face economic uncertainty, the sale of an easement offers those who want to remain in agriculture, or want their land to remain in agriculture, a viable alternative to selling the land for development.”)
- 42 See Figure 7c.
- 43 See e.g., Ellen Berry, The Virus Sent Doves to a Small Town. Suddenly, It’s Not So Small., NY Times (Sept. 26, 2020), <https://www.nytimes.com/2020/09/26/us/coronavirus-vermont-transplants.html>.
- 44 See Figure 9.
- 45 The question could be included in Section 6 of the standard Census of Agriculture Questionnaire, simply asking if the operation has contacted a lawyer over the past five years. If the answer is yes, a follow up question could ask for what purpose they contacted the attorney and provide a list of options including the different legal issues discussed in this report. If the operation has not contacted an attorney, a follow up question asking why not could include responses like financial hardship or the perceived helpfulness of attorneys. This may also operate as a signal from the USDA to the farming community of the importance of legal services in economic sector that continues to grow in complexity.
- 46 See e.g. Vermont Legal Food Hub | Vermont Law School, <https://www.vermontlaw.edu/academics/centers-and-programs/center-for-agriculture-and-food-systems/projects/vermont-legal-food-hub> (last visited Jan 15, 2021); Food and Beverage Law Clinic | Pace Law School, <https://law.pace.edu/food-and-beverage-law-clinic> (last visited Jan 15, 2021); Food Law & Policy Clinic at UCLA Law | UCLA Law, <https://law.ucla.edu/academics/clinical-education/clinics/food-law-policy-clinic> (last visited Jan. 15, 2021)
- 47 The USDA’s Farm Service Agency administers the AMP by distributing grants to states in order for them to fund an entity that provides alternative dispute resolution services for farmers, their creditors, and other directly-affected parties. A national-scale program to help support pro or low bono legal services to the food system could be modeled on the successes of the AMP, with grants administered to states through Rural Development. Such grants could be distributed to states, which would designate an organization that would provide these services to individuals. Doing so would not only ensure access to legal services critical to growing and sustainable our local food system and economies, but also would provide a more robust data collection tool that could be coordinated at the federal level. Such data would also help gain a clearer picture as to the legal services each region’s food system requires, which would influence the educational resources organizations like the Legal Food Hub could develop.