

# **Food Law and Policy, Fall 2018**

Harvard Law School

Assistant Clinical Professor Emily Broad Leib

Course Number 2359

Wednesdays 3:00 – 5:00pm

Room WCC 3009

## **Instructors:**

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**Course Website:** Available to students on [canvas.harvard.edu](https://canvas.harvard.edu)

**Office Hours:** Steven Trothen will share online form for students to sign up for Prof. Broad Leib's office hours directly.

## **Course Objectives:**

This course aims to give students an overview of the laws structuring the U.S. food and agricultural system; discuss the food system's influences on health, the environment, and the economy; evaluate a range of potential legal and policy solutions that may be effective in improving the food system; and identify the role lawyers can play in making these changes.

## **Course Description:**

This seminar will present an overview of topics in food law and examine how these laws shape what we eat. In recent years, increasing attention has been paid to a range of issues impacting the food system from farm to fork to landfill. In just the past year, major news stories have covered CAFO nuisance litigation in North Carolina, state and local efforts to pass or ban taxes on sugar-sweetened beverages, new federal regulations to require labeling on bio-engineered foods, and the misleading and unregulated terrain of expiration dates.

In order to better understand these issues and some of their root causes, we will examine food policy via the diverse lenses of producers, consumers, and companies, as well as using various disciplinary perspectives. We will concentrate on food law in the United States, but will also discuss the global food system, and will include comparative international perspectives in several areas.

Some of the overall themes that this course addresses are the environmental, health, and safety consequences of current methods of food production; the lack of a comprehensive U.S. food policy and the challenges posed by our fragmented regulatory framework; the debate between personal vs. societal responsibility for diet-related disease and the ways in which this debate plays out; the failure of agricultural practices to internalize the costs of their environmental and health impacts; and the challenges to promoting transparency in food labeling and marketing. In addition to following these themes throughout the course, we will also evaluate a range of existing and potential policy interventions at the federal, state, and local level.

The reading materials for the seminar will be provided in PDFs available in a course reader and on the course website, and include various book chapters, cases, statutes, regulations, news reports, and scholarly articles that present diverse viewpoints on the topics presented. The seminar is intended to spark debate between different sides of these often controversial issues.

### **Course Requirements:**

The seminar is open to any student interested in food and agricultural policy and its implications on health and the environment. No background or prerequisites are required.

Rather than an examination, students will be required to engage in regular online discussion, via the course website; prepare for and participate in one in-class role play debate; write and present one written policy brief; and participate regularly in class. Grades will be determined on the basis of these written submissions, in-class role plays, and class participation. These assignments are described in detail below.

### **Readings:**

The syllabus and course readings are available online on the course website in the “Files” folders or in each “Week” button on the homepage. Reading the course materials in advance of class is vital so that class time can be spent in engaging discussions that build off the content, rather than spending the time to reiterate what was in the readings. Often readings or portions of readings are marked in the syllabus as “skim;” please follow along in the syllabus as you read to ensure that you keep those indicators in mind.

### **Assignments**

- **Policy paper:** Students will be responsible for preparing one 5-7 page policy paper in either week 11 or 12. Papers should be single-spaced with one-inch margins and should include footnoted citations. Students can sign up for the written assignment that best suits their interest and schedule, using the sign in sheet that is provided the first night of class and on the course website. Students can write the policy paper about a topic of their choosing; students will be required to submit an outline/proposal for their paper midway through the course, in order to get instructor feedback.

**\*\*All students must submit a one-page outline of their proposed policy paper to the course website by midnight on Wednesday, October 10.**

**\*\*Policy papers are due online in the Assignments link by midnight on the SUNDAY due dates specified.** Each student will complete one of the two possible policy papers:

- Week 11: policy brief on strategies to improve environmental impacts of the food system, due to the Assignments link on Sunday, November 11.
  - Week 12: policy brief on strategies to improve public health outcomes of the food system, due to the Assignments link on Sunday, November 18.
- **In-class debates:** Each student will participate in one of five in-class role play debates: a Federal Trade Commission hearing on restricting food marketing to children; two House Agriculture Committee hearings on two different issues within the Farm Bill; a Senate Judiciary Committee hearing on personal responsibility with regard to diet-related diseases; and a USDA hearing on barring SNAP payments for soda.

Students will be responsible for turning in a brief (2-page, single-spaced) written testimony to the Assignments link on the course website **by midnight the MONDAY before participating in the role play or debate.** Papers should be single-spaced with one-inch margins and should include footnoted citations. Students will then be asked to present a few main points from their testimony in class, and the

students participating in the activity, as well as rest of the class, will have an opportunity to pose questions. The rest of the class is encouraged to review the testimonies posted by the students who will be engaging in the debate, in order to better prepare questions. Students can conduct additional research outside of the course readings in order to prepare their written testimonies and role plays.

Students can sign up for the role plays that best suit their interest and schedule, using the sign in sheet that is provided the first night of class or on the course website. Students will be assigned by the instructors to play a specific role in the activity.

- **Online discussion:** Throughout the semester, students will post a meaningful comment or question on the Discussions board before class. **Postings are due at least two hours prior to the start of class.** Here is the schedule of when and what is expected for the discussion posts:
  - **Week 1:** no discussion post required.
  - **Weeks 2-10:** Students are required to post a comment or question. Comments can either respond to one or several readings for the week, present the class with an interesting and timely current news article relevant to that week's readings or to the course at large, or respond to another student's comment. If the discussion post is about a news item, please include a link to the story. News items do not need to be specifically related to the course topic for the week, but instead should help the students stay abreast of any food policy-related news coming out that week. *Students will be excused from posting on the discussion board 3 times during Weeks 2-10; no notification need be given to the instructor in advance.*
  - **Weeks 11-12:** Discussion board posts during these weeks will be questions for other students on their policy papers. All students must post 3 questions related to the policy papers that will be presented that week (1 question for each author is fine). All students will receive copies of the policy papers several days in advance of class, and students should review questions on their own papers on the discussion board prior to the class where they will be presenting.
- **Participation:** Course participation will count for a large portion of your grade. This course is taught as a small seminar in order to facilitate discussion, and every effort will be made to ensure that all students are comfortable participating, and to include all students' viewpoints.

### **Grading Policy**

Students will be evaluated as follows:

- Participation in in-class discussions (based on both quality and quantity) and online discussion board: 50%
- Role play activity (written testimony and in-class activity): 20%
- Policy paper: 30%

## **Food Law and Policy Course – Fall 2018**

Week 1 (9/5): Overview: Course Themes and Food Waste Case Study

Week 2 (9/12): The Food Safety Regulatory Framework; Adulteration and Safety

Week 3 (9/19): Labeling & Marketing I

Week 4 (9/26): Labeling & Marketing II

Week 5 (10/3): Farm Bill I – Conventional Agriculture

Week 6 (10/10): Genetically Modified and Edited Foods

Week 7 (10/17): Farm Bill II – Building a More Diverse and Resilient Agriculture and Food System

Week 8 (10/24): Dietary Guidelines

Week 9 (10/31): Food & Health

Week 10 (11/7): Food Security & Food Access

Week 11 (11/14): Innovative Solutions: Focus on Food + Environment – Policy Papers

*\*\*No class on 11/21 due to Thanksgiving Break \*\**

Week 12 (11/28): Innovative Solutions: Focus on Food + Health – Policy Papers

# Week 1: Overview: Course Themes and Food Waste Case Study

September 5

## Assignments

### READ:

#### ➤ Overview

- Michael Pollan, “The Food Movement, Rising,” New York Review of Books, June 10, 2010
- Anthony Weis, “The Global Food Economy: Contradictions and Crises,” in *The Global Food Economy: the Battle for the Future of Farming*, (2007) [EXCERPT, Chapter 1, p. 11-16, 44-46]
- Susan A. Schneider, “A Reconsideration of Agricultural Law: A Call for the Law of Food, Farming, and Sustainability,” 34 Wm. & Mary Envtl. L. & Pol’y Rev. 935 (2010)
- Harvard Law School Food Law & Policy Clinic & Vermont Law School Center for Agriculture & Food Systems, *Blueprint for a National Food Strategy* (2017) [EXCERPT: p.10-13, 16-20]

#### ➤ Food Waste in the U.S.

- ReFED, “A Roadmap to Reduce U.S. Food Waste by 20 Percent: Executive Summary” (2016)
- Optional Video Companions
  - John Oliver, Last Week Tonight, Food Waste (July 2015)
  - EXPIRED? Food Waste in America (Harvard FLPC and Racing Horse Productions, 2016)

# Week 2: The Food Safety Regulatory Framework; Adulteration and Safety

September 12

## Assignments

### READ:

- **History & Overview of U.S. Food Safety Authority: Should We Consolidate Our Food Safety Agencies?**
  - Upton Sinclair, *The Jungle*, Chapter 9, 14 (1906)
  - Renée Johnson, “The Federal Food Safety System: A Primer,” Cong. Research Service (Jan. 17, 2014)
  - “Reforming the Food Safety System: What If Consolidation Isn’t Enough?,” 120 Harv. L. Rev. 1345 (March, 2007)
  - *SKIM: 21 U.S.C. § 331 – Prohibited Acts* [EXCERPTS]
- **Adulteration**
  - *SKIM: 21 U.S.C. § 342 – Adulterated Food* [EXCERPTS]
  - U.S. Food and Drug Administration, Defect Levels Handbook [EXCERPT]
  - *Supreme Beef Processors v. USDA*, 275 F.3d 432 (5th Cir. 2001)
  - Jeneen Interlandi, “GRAS: The Hidden Substances in Your Food,” Consumer Reports (Aug. 17, 2016)
- **Federal Modifications: Food Safety Modernization Act**
  - Food and Drug Administration, “Background on the FDA Food Safety Modernization Act (FSMA),” (updated July 12, 2011)
  - Nicholas Obolensky, “The Food Safety Modernization Act of 2011: Too Little, Too Broad, Too Bad,” 17 Roger Williams U. L. Rev. 887 (2012) [EXCERPT]
  - *SKIM: Grist*, “Will the Food Safety Modernization Act harm small farms or producers?” (Nov. 15, 2010)
  - National Sustainable Agriculture Coalition, “Understanding FDA’s New FSMA Rule for Produce Farms - Part 1” (Dec. 2, 2015)
- **Opting Out? State and Local Examples**
  - Harvard Food Law and Policy Clinic, Cottage Food Laws in the United States (Aug. 2018) [EXCERPTS]
  - Lela Nargi, “Food Freedom’ Advocates Claim Victory in Maine,” Civil Eats (July 18, 2017)
  - Joel Salatin, *Everything I Want to Do Is Illegal*, 50 - 65 (2007)
  - Abbie Fentress Swanson, “Small Meat Producers Take Their Slaughterhouse Grips To Congress,” NPR the salt (October 15, 2015)

**In Class Activity:** Students will be placed into groups to discuss and debate one of the following four policy questions and then report back to the class:

1. Should we consolidate our food safety agencies?
2. What does it mean for food to be adulterated and what are the ongoing challenges with identifying and regulating adulteration?
3. What are the biggest strengths and weaknesses of FSMA? Should FSMA exempt smaller producers?
4. Should small producers and locally-grown foods fall under the same one-size-fits-all federal food safety rules? Should states or localities be allowed to opt out?

After the group discussion, one representative from each group will present to the larger group the legal background for the question and then tell us their group’s opinion on the question.

# Week 3: Labeling & Marketing I

September 19

## Assignments

### READ:

#### ➤ Labeling Basics

- **SKIM:** 21 U.S.C. § 343 – *Misbranded Food (a) – (i),(q)*
- FDA Guidance for Industry: A Food Labeling Guide (Jan 2013) [EXCERPT: p. 1-8, 17, 25-26, 72-73, 80-86]
- FDA Nutrition Innovation Strategy, July 3, 2018

#### ➤ Standards of Identity

- **SKIM:** *Warning Letter from William A. Correll, Jr, Director, Office of Compliance, FDA Center for Food Safety and Applied Nutrition, to Joshua Tetrick, Founder and Chief Executive Officer, Hampton Creek Foods; August 12, 2015*
- Stephanie Strom, “F.D.A. Allows Maker of Just Mayo to Keep Product’s Name,” NY Times, Dec. 17, 2015
- Elaine Watson, “FDA to ‘modernize certain standards of identity’ as part of strategic policy roadmap,” Food Navigator, Jan. 15, 2018

#### ➤ Nutrition Facts Panel and Front of Package Labeling

- U.S. Food and Drug Administration, At a Glance: Highlights of the Final Nutrition Facts Panel
- U.S. Food and Drug Administration, 2014 FDA Health and Diet Survey, May 6, 2016 [EXCERPT p. 1-3, 7-9, 33-36]
- Bruce Silverglade and Ilene Ringel Heller, Center for Science in the Public Interest, Food Labeling Chaos: The Case for Reform (2010) [EXCERPT Executive Summary]
- C.A. Roberto and N. Khandpur, Improving the design of nutrition labels to promote healthier food choices and reasonable portion sizes, International Journal of Obesity (2014)
- Andrew Jacobs, “In Sweeping War on Obesity, Chile Slays Tony the Tiger,” N.Y. Times, Feb. 7, 2018
- Mark Lawrence et al., Do Nutrient-Based Front-of-Pack Labelling Schemes Support or Undermine Food-Based Dietary Guideline Recommendations? Lessons from the Australian Health Star Rating System, Nutrients, Jan. 2018.
- Marion Nestle, Public Health Implications of Front-of Package Labels, Am. J. Public Health, Mar. 2018.

#### ➤ Health Claims and Qualified Health Claims

- *Pearson v. Shalala*, 164 F.3d 650 (D.C. Cir. 1999)

## Week 4: Labeling & Marketing II

September 26

### Assignments

#### READ:

##### ➤ Trends in Commercial Speech and Compelled Speech Jurisprudence

- *Virginia State Bd. of Pharmacy v. Virginia Citizens Consumer Council, Inc.*, 425 U.S. 748 (1976) [EXCERPTS]
- Tamara Piety, “A Necessary Cost of Freedom? The Incoherence of *Sorrell v IMS*,” 64 Alabama Law Review 1 (2012) [EXCERPT Introduction, Section I Section II, Section VI, Conclusion]
- *American Beverage Association v. City of San Francisco*, 871 F.3d 884 (9th Cir. 2017).

##### ➤ Marketing to Children

- Committee on the Food Marketing and the Diets of Children and Youth, “Food Marketing to Children and Youth – Threat or Opportunity,” Institute of Medicine (2006) Executive Summary
- Federal Trade Commission, Food and Drug Administration, Centers for Disease Control and Prevention, and U.S. Department of Agriculture, “Food For Thought: Interagency Working Group Proposal on Food Marketing to Children,” (2011)
- Reuters, “US FTC weakens proposals for food ads to children,” Oct. 11, 2011
- Samantha Graff, et. al., “Government Can Regulate Food Advertising to Children Because Cognitive Research Shows That It Is Inherently Misleading,” HealthAffairs Issue 31 no. 2 (2012)

##### ➤ “Natural”

- Warning Letter from Michael W. Roosevelt, Acting Director, Office of Compliance, FDA Center for Food Safety and Applied Nutrition, to Alex Dzieduszycki, CEO, Alexia Foods, Inc.; Nov. 16, 2011
- USDA’s and FDA’s Definitions of Natural on a Food Label
- Charles Sipos and Lauren Staniar, “When will the FDA define ‘natural’? Sooner than you might think. . .”, Food Navigator, Mar. 6, 2018
- *SKIM: Nicole Negowetti, Food Labeling Litigation: Exposing Gaps in the FDA’s Resources and Regulatory Authority, Brookings Institution, June, 2014 [EXCERPT]*
- Baylen Linnekin, “The FDA’s Push to Define ‘Natural’ is an Exercise in Futility. Let consumers, advocates, and courts decide,” Reason.com, May 14, 2016

**PREPARE:** Students involved in the in-class activity should prepare for the role-play by doing additional research so that they can play their assigned role.

Four students will have been pre-assigned roles to play in an in-class role play of an FTC hearing on whether to restrict food marketing aimed at children. The four representatives that participate in the role play will include:

- Representative of the Center for Science in the Public Interest
- Representative of the Association of National Advertisers
- Representative of the Campaign for a Commercial-Free Childhood
- Representative of the Grocery Manufacturers Association

**\*\*\*Remember that written testimonies are due online by midnight on the Monday before class for those students assigned to one of the above roles.**

All other students should read the testimonies and prepare to ask questions, playing the role of the FTC.



# Week 5: Farm Bill I—Conventional Agriculture

October 3

## Assignments

### READ:

#### ➤ Background on the U.S. Farm Bill

- USDA, Mission Areas
- Renee Johnson and Jim Monke, “What is the Farm Bill?” Congressional Research Service (April 26, 2018)
- Nathan A. Rosenberg & Bryce Wilson Stucki, The Butz Stops Here: Why the Food Movement Needs to Rethink Agricultural History, 13 J. Food L. & Pol’y 12 (2017)

#### ➤ Environmental Impacts of Agriculture

- J.B. Ruhl, “Farms, Their Environmental Harms, and Environmental Law,” 27 Ecology Law Quarterly 263 (2000) [EXCERPT- Introduction, Parts I and II]
- Margot Pollans, “Drinking Water Protection and Agricultural Exceptionalism,” 77 Ohio St. L. J. 1195 (2016) [EXCERPT- Parts I and II].
- Wendell Berry, The 50-Year Farm Bill, The Atlantic (Nov. 13, 2012)

#### • The 2018 Farm Bill

- Listen to Podcast: On the Table, Episode 1: Meet the Farm Bill
- Farm Bill Law Enterprise, Productivity and Risk Management (March 2018) [Executive Summary and Introduction]

#### ➤ Optional Additional Reading

- Daniel Imhoff, Food Fight: The Citizen’s Guide to the Next Food and Farm Bill (2012).
- The U.S. of Agriculture, PBS: Food Forward (Oct. 11, 2014).

**PREPARE:** Students involved in the in-class activity should prepare for the role-play by doing additional research so that they can play their assigned role.

Four students will have been pre-assigned roles to play in an in-class role play of a House Agriculture Committee hearing regarding the Farm Bill, advocating for changes to the Farm Bill that their organization believes will support the livelihoods of farmers while better protecting the environment. In particular, how should Congress change what the Farm Bill subsidizes? The four representatives that participate in the role play will include:

- Representative of the American Farm Bureau Federation
- Representative of the Environmental Working Group
- Representative of the National Sustainable Agriculture Coalition
- Representative of the Heritage Foundation

**\*\*\*Remember that written testimonies are due online by midnight on the Monday before class for those students assigned to one of the above roles.**

All other students should read the testimonies and prepare to ask questions, playing the role of the House Agriculture Committee.

## Week 6: Genetically Modified and Edited Foods

October 10

### Assignments

#### READ:

##### ➤ Overview of U.S. Regulation of GM Foods

- Rene Van Acker et al., Pros and Cons of GMO Crop Farming, Oxford Research Encyclopedia of Environmental Science (Oct. 2017) [EXCERPT]

##### ➤ Patenting of Genetically-Modified Organisms

- *Diamond v. Chakrabarty*, 447 US 303 (1980) Overview
- *J.E.M. Ag Supply, Inc. v. Pioneer Hi-Bred International, Inc.*, 534 U.S. 124 (2001) Overview of Opinion, Overview of Dissent
- Wen Zhou, “The Patent Landscape of Genetically Modified Organisms,” Science in the News, Harvard University Graduate School of Arts and Sciences (Aug. 10, 2015)
- Frederick Kaufman, “Genetically Monetized Food,” Slate.com (Dec. 20, 2012)

##### ➤ The “Coordinated” Framework for Biotechnology

- Rebecca Bratspies, “Some Thoughts on the American Approach to Regulating Genetically Modified Organisms,” 16 Kan. J. L. & Pub. Pol’y 393 (2007) [EXCERPT]
- *Skim: Modernizing the Regulatory System for Biotechnology Products: Final Version of the 2017 Update to the Coordinated Framework for the Regulation of Biotechnology (2017)* [EXCERPT]
- Jessica Lau, “Same Science, Different Policies: Regulating Genetically Modified Foods in the U.S. and Europe,” Science in the News, Harvard University Graduate School of Arts and Sciences (Aug. 9, 2015)

##### ➤ Regulating GMs in the Food Supply & BE Labeling

- FDA, “Department of Health and Human Services, Food and Drug Administration (Docket No. 92N-0139) Statement of Policy: Foods Derived From New Plant Varieties” (May 29, 1992) [EXCERPT]
- *Alliance for Bio-Integrity v. Shalala*, 116 F. Supp 2d 166 (2000) [EXCERPT]
- National Sea Grant College Program Act (P.L. 114-216) [2016 Federal GMO Labeling Law]

##### ➤ Current Issues with GM Foods

- Katerina Zimmer, “We’re Asking the Wrong Questions About Glyphosate,” The New Food Economy (May 22, 2018)
- Kenneth Chang, “These Foods Aren’t Genetically Modified but They Are ‘Edited,’” NY Times (Jan. 9, 2017).

**PREPARE:** All students should submit a one page proposal or outline of their policy paper in the course Assignments link by midnight on the day of class (October 10). Remember to check whether you are writing your final paper for week 11 (environment/sustainability) or week 12 (health).

# Week 7: Farm Bill II—Building a More Diverse and Resilient Agriculture and Food System

October 17

## Assignments

### READ:

#### ➤ Background on Racial and Environmental Injustice

- Garcia v. Vilsack: A Policy and Legal Analysis of a USDA Discrimination Case, Congressional Research Service (Feb. 22, 2013).
- Wendee Nicole, “CAFOs and Environmental Justice: The Case of North Carolina,” Environmental Health Perspectives, June 2013
- Complaint, In Re North Carolina Swine Farm Nuisance Litigation (Sept. 23, 2014)

#### ➤ Background on Resilient Food Systems

- Union of Concerned Scientists, Fact Sheet: Counting on Agroecology (Nov. 2015)
- The Christensen Fund, Soil to Sky: Of Agroecology vs. Industrial Agriculture, WorldWatch Blog (Sept. 2012)

#### ➤ Support for Diverse and Resilient Agriculture Within the Farm Bill

- Farm Bill Law Enterprise, Diversified Agricultural Economies (March 2018) [Executive Summary and Introduction]

#### ➤ Organics: Background & Debates

- 7 U.S.C.A. § 6501 et seq. (Organic Foods Production Act) [EXCERPTS]
- Margaret Mellon, “Reasons to Buy Organic: Let us Count the Ways,” (Sept. 12, 2012)
- Michael Pollan, The Omnivore’s Dilemma (2006), p. 154-162
- Lynn Curry, “Certified organic livestock are supposed to have outdoor access. In practice, they don’t,” The New Food Economy (Nov. 2017)
- Agricultural Marketing Service, USDA, Organic Livestock and Poultry Rule Withdrawal, 82 Fed. Reg. 59988 (Dec. 18, 2017)

**PREPARE:** Students involved in the in-class activity should prepare for the role-play by doing additional research so that they can play their assigned role.

Four students will have been pre-assigned roles to play in an in-class role play of a House Agriculture Committee hearing on the Farm Bill, advocating for their organization’s position regarding how the Farm Bill can support specialty and organic crops. The four representatives in the role play will include:

- National Sustainable Agriculture Coalition
- Representative of the United Fresh Produce Association
- Representative of the National Association of Wheat Growers
- Representative of the Heritage Foundation

**\*\*\*Remember that written testimonies are due online by midnight on the Monday before class for those students assigned to one of the above roles.**

All other students should read the testimonies and prepare to ask questions, playing the role of the House Agriculture Committee.

## Week 8: Dietary Guidelines

October 24

### Assignments

#### READ:

##### ➤ U.S. Dietary Guidelines

- 2015-2020 Dietary Guidelines for Americans [EXCERPT Executive Summary]
- **SKIM:** *Website for 2015-2020 Dietary Guidelines*
- **SKIM:** *Select Comments to the DGAC Report*
  - *American Beverage Association*
  - *Grains' Industry*
  - *The Beef Checkoff*
- Mary Clare Jalonick and Lauran Neergaard, "Republicans push back against proposed dietary guidelines," Salon.com (June 24, 2015)
- Marion Nestle, *Food Politics* (2002), p. 1-5, 38-50, chart on page 73
- Emily J. Schaffer, Is the Fox Guarding the Henhouse? Who Makes the Rules in American Nutrition Policy? *57 Food & Drug Law Journal* 371 (2002) [EXCERPT]
- Cheryl Achterberg, "Rigorous Science Must Decide Dietary Guidelines to Combat Health Epidemic," Roll Call, Oct. 22, 2015

##### ➤ Food for Thought

- Michael Pollan, *In Defense of Food: An Eater's Manifesto* (2009) [EXCERPT p. 40 – 50]
- Gary Taubes, *Why We Get Fat* (2011) [EXCERPT p. 72-79, 89-99]
- Julia Belluz, "I Asked 8 Researchers Why the Science of Nutrition is so Messy. Here's What They Said," VOX, Jan. 14, 2016

##### ➤ Reversals in Nutrition Guidance

- *Cholesterol*
  - American Heart Association, "How Can I Lower High Cholesterol" (2012)
  - Peter Whorinsky, "The U.S. government is poised to withdraw longstanding warnings about cholesterol," The Washington Post, Feb. 10, 2015
- *Trans Fat*
  - Elaine Blume, The Truth About Trans: Hydrogenated Oils Aren't Guilty As Charged – Trans Fats, CSPI's Nutrition Action Healthletter (1988)
  - U.S. Food and Drug Administration, News Release, "The FDA takes step to remove artificial trans fats in processed foods" (June 2015)
  - Elizabeth Crawford, "GMA Petitions FDA to Allow 'Low-Level Use' of PHOs," Food Navigator USA (Aug. 6, 2015)
- *Low Fat vs. Low Carb*
  - Gina Kolata, Report Urges Low-Fat Diet for Everyone, NY Times, Feb. 28, 1990
  - Melinda Wenner Moyer, Carbs against Cardio: More Evidence that Refined Carbohydrates, not Fats, Threaten the Heart, Scientific American, April 27, 2010
  - Anahad O'Connor, "A Decades-Old Study, Rediscovered, Challenges Advice on Saturated Fat," NY Times: Well Blog, April 13, 2016
- *Salt*
  - Aaron E. Carroll, "Dash of Salt Does No Harm. Extremes Are the Enemy," NY Times, Aug. 25, 2014

➤ **Optional Video Companions**

- [THIS WILL ALSO BE SHOWN IN CLASS] Public Testimony from the 2015 Dietary Guidelines Advisory Committee, January 2014, minute 43:50 - 55:40 (12 minutes)
- Calorie Detective, NY Times OpDoc

## Week 9: Food & Health

October 31

### Assignments

#### READ:

##### ➤ Litigation

- *Pelman v. McDonald's Corp.*, 237 F.Supp.2d 512 (S.D.N.Y.2003)
- Michelle E. Mello, et. al., "The McLawsuit: The Fast-Food Industry and Legal Accountability for Obesity," 22 Health Affairs no. 6 (2003)
- Stephanie Strom, "Lawyers from Suits Against Big Tobacco Target Food Makers," NY Times, Aug. 18, 2012
- *Athena Hohenberg, individually and on behalf of all others similarly situated, Plaintiffs, v. Ferrero U.S.A. Inc., a foreign corporation*, 2011 WL 330006 (S.D.Cal.)

##### ➤ Personal v. corporate v. regulatory responsibility

- 111<sup>th</sup> Congress H.R. 812 "Commonsense Consumption Act of 2009"
- Kelly Brownell, Robert Post, et. al., "Personal Responsibility and Obesity: A Constructive Approach to a Controversial Issue," HealthAffairs Issue 29, No. 3 (2010)
- Michael Moss, The Extraordinary Science of Addictive Junk Food, NY Times Feb. 20, 2013

##### ➤ Other responses and the limits of regulatory power

- Lindsey Murtagh and David Ludwig, "State Intervention in Life-Threatening Childhood Obesity," JAMA Vol. 306 No. 2 (2011)
- Norimitsu Onishi, "Japan, Seeking Trim Waists, Measures Millions," NY Times, June 13, 2008
- *New York Statewide Coal. of Hispanic Chambers of Commerce v. New York City Dep't of Health & Mental Hygiene*, 23 N.Y.3d 681 (2014) READ the majority, SKIM the dissent
- Robert Lustig, et. al., The Toxic Truth About Sugar. Nature, Feb 2012
- Nicholas Confessore, "How School Lunch Became the Latest Political Battleground," NY Times, Oct 7, 2014
- Julia Haskins, "Rollbacks to school meal nutrition threatening health: Public health regulations under fire," The Nation's Health, Sept. 2017

##### ➤ Optional Video Companions

- Soda Ban Explained, Op-Docs, NY Times, Sept. 9, 2012
- The Food Lobby Goes to School, American News Project

**PREPARE:** Students involved in the in-class activity should prepare for the role-play by doing additional research so that they can play their assigned role.

Four students will have been pre-assigned roles to play in an in-class role play of a Senate Judiciary Committee debate regarding the Personal Responsibility in Food Consumption Act or Commonsense Consumption Act. The four representatives that participate in the role play will include:

- Representative of the National Consumers Union
- Representative of the Center for Science in the Public Interest
- Representative of the National Restaurant Association
- Representative of the Center for Consumer Freedom

**\*\*\*Remember that written testimonies are due online by midnight on the Monday before class for those students assigned to one of the above roles.**

All other students should read the testimonies and prepare to ask questions, playing the role of the Senate Judiciary Committee.

# Week 10: Food Security & Food Access

November 7

## Assignments

### READ:

#### ➤ **Food Access; Food Deserts?**

- USDA Economic Research Service, “Household Food Security in the United States in 2014” Report Summary (Sept. 2015)
- USDA Economic Research Service, “Access to Affordable and Nutritious Food: Updated Estimates of Distance to Supermarkets Using 2010 Data” (November 2012) [Report Summary]
- Emily Broad Leib, All (Food) Politics is Local: Increasing Food Access through Local Government Action, 7 Harv. L. & Pol’y Rev. 321 (2013) [EXCERPT Part I – II]
- **SKIM:** Helen Lee, *The role of local food availability in explaining obesity risk among young school-aged children*, *Social Science & Medicine*, vol. 74, issue 8, 1193 (Apr. 2012)
- Gina Kolata, “Studies Question the Pairing of Food Deserts and Obesity,” NY Times, Apr. 17, 2012
- Margot Sanger Katz, Giving the Poor Easy Access to Healthy Food Doesn’t Mean They’ll Buy It, NY Times, May 8, 2015
- Office of Community Services, Department of Health and Human Services, Healthy Food Financing Initiative

#### ➤ **Food Security, Food Assistance, and the Supplemental Nutrition Assistance Program – Opportunities and Debates**

- World Hunger Year, U.S. Hunger: Federal Food Programs (2013)
- Center for Budget and Policy Priorities, Policy Basics: Supplemental Nutrition Assistance Program (2018)
- Jen Fifield, Should People Be Barred From Buying Junk Food With Food Stamps?, Pew Charitable Trusts Stateline (Feb 24, 2017).
- Tom Philpott, It’s Time to Stop Shaming Poor People for What They Buy With Food Stamps, Mother Jones (Jan. 18, 2017).
- Ed Bolen et al., Senate’s Bipartisan Farm Bill Strengthens SNAP and Avoids Harming SNAP Households, Center for Budget and Policy Priorities (July 30, 2018)
- USDA Food and Nutrition Service, “Snapshot of the WIC Food Packages” (Oct. 5, 2015)

#### ➤ **A Right to Food?**

- Nourishing Change: Fulfilling the Right to Food in the United States, International Human Rights Clinic, NYU School of Law (2013)

#### ➤ **Optional Additional Readings**

- William Finnegan, Dignity: Fast-food workers and a new form of labor activism, The New Yorker (2014)
- Gail Wadsworth, What Does Food Justice Mean for Farmworkers? Food First (2014)
- Cecilia Rocha, Developments in National Policies for Food and Nutrition Security in Brazil, Development Policy Review 27(1) (2009) [EXCERPT p.51-59]

**PREPARE:** Students involved in the in-class activity should prepare for the role-play by doing additional research so that they can play their assigned role.

Four students will have been pre-assigned roles to play in an in-class role play of a USDA hearing regarding whether to limit the use of SNAP to purchase soda and/or other junk foods. The four representatives that participate in the role play will include:

- Representative of the American Medical Association
- Representative of the American Beverage Association
- Former Mayor Bloomberg
- Representative of the NYC Coalition Against Hunger

**\*\*\*Remember that written testimonies are due online by midnight on the Monday before class for those students assigned to one of the above roles.**

All other students should read the testimonies and prepare to ask questions, playing the role of the USDA.



# Week 11: Innovative Solutions: Focus on Food + Environment

April 11

## Assignments

### READ:

- Students will receive copies of the policy papers in advance of class and are asked to read each other's papers so that they can be presented and discussed in class.

### OPTIONAL ADDITIONAL READINGS (FOR INSPIRATION)

- **National Policy Ideas**
  - Michael Pollan, "Farmer in Chief," Oct. 12, 2008
- **Supporting Sustainable or Local/Regional Food Production**
  - Summer Ballentine, "Proposed Missouri tax credits aimed at enlisting new farmers" Southeast Missourian, Jan. 13, 2015
  - Heather Hansman, "How New Legislation in Boston Gave Fresh Life to Urban Farms," Modern Farmer, April 16, 2014
  - Megan Wakefield, "Urban Agriculture Property Tax Credit in Baltimore City: First Reader Committee Meeting at City Hall," Community Law Center (October 2, 2014)
  - Food & Water Watch, "Where's the Local Beef?," June 2009, p. 1-3, 6, 8, 17
  - David Kapp, "New California law aims to rid farmers markets of cheaters," Los Angeles Times, Sept. 29, 2014
  - Andrew Amelinckx, "The Fight For Local Food Arrives at the University of Maine" Modern Farmer, Aug. 18, 2015
  - Helena Bottemiller, "Putting Food Traceability at Consumers' Fingertips," Food Safety News, May 28, 2013
- **Reducing Food Waste**
  - Chris Berdik, "Massachusetts' new composting rules: What they really mean," Boston Globe, Sept. 25, 2014
  - Drake University Newsroom, "Underused tax credit rewards Iowa's growers with fresh food donations," March 31, 2015
  - Amy Radil, "Tossing Out Food In The Trash? In Seattle, You'll Be Fined For That," NPR, Jan. 26, 2015
  - Angelique Christafis, France to Force Big Supermarkets to Give Unsold Food to Charities, The Guardian, May 22, 2015

**PREPARE:** Half of the class will select a policy solution of their own choosing aimed at improving the impacts of our food system on the environment and sustainability and write a 5 page, single-spaced policy brief asking a specific city or state government, or the federal government, to implement such a policy. Your brief should discuss what new law(s) or regulation(s) would need to be enacted, if any. Describe where the new policy, as well as any new law or regulation, would fit into existing policies, statutes or regulations, how they should be implemented and evaluated, and how they should be funded.

For example, students in previous semesters have proposed and analyzed policies on:

- Facilitating Innovation in Food Rescue and Redistribution in Massachusetts
- Providing Financial Resources for Beginning Farmers in Massachusetts
- Incentivizing Sustainable Agriculture in Iowa Through a Tax Credit
- Water Pricing as a Solution to California's Water Shortage
- Combating Seafood Fraud through Federal Labeling Requirements for Restaurants

**\*\*\* Policy briefs are due in the Assignments link on the course website by midnight on SUNDAY, NOVEMBER 11.**

## Week 12: Innovative Solutions: Focus on Food + Health

April 18

### Assignments

#### READ:

- Students will receive copies of the policy papers in advance of class and are asked to read each other's papers so that they can be presented and discussed in class.

#### OPTIONAL ADDITIONAL READINGS (FOR INSPIRATION)

- **Improving Health of Children and in Schools**
  - Thomas Frieden et al., Reducing Childhood Obesity Through Policy Change: Acting Now To Prevent Obesity, *HealthAffairs* (Mar 2010)
  - Janet Poppendieck, *Free for All: Fixing School Food in America* [EXCERPT p. 261-275]
  - Sarah Henry, Berkeley's New School Food Study: A Victory For Alice Waters, *Atlantic Online*, Sep. 23, 2010
  - David R. Just and Brian Wansink, Smarter Lunchrooms: Using Behavioral Economics to Improve Meal Selection. *Choices: Magazine of Food Farm and Resource Issues* (2009)
- **Restricting Unhealthy Choices, Promoting Healthy Choices**
  - Margot Sanger-Katz, Tax Passes in Philadelphia. *Advocates Ask: Who's Next?*, *NY Times: The Upshot*, June 16, 2016
  - Karen Freifeld, New York City Can Enforce Rule on Salt Warnings in Restaurants: Court, *Reuters*, May 26, 2016
  - Oliver T. Mytton, et. al., Taxing unhealthy food and drinks to improve health, *BMJ* (2012)
  - NPR, Navajos Fight Their Food Desert With Junk Food And Soda Taxes, April 01, 2015
  - Jane Brody, Prescribing Vegetables, Not Pills, *NY Times*, Dec. 1, 2014
  - Dan Charles, How 'Double Bucks' For Food Stamps Conquered Capitol Hill, *NPR*, Nov. 10, 2014
  - Jennifer Medina, "In South Los Angeles, New Fast-Food Spots Get a 'No, Thanks'," *NY Times*, Jan. 15, 2011
  - Mark Bittman, "My Dream Food Label," *NY Times*, Oct. 13, 2012

**PREPARE:** Half of the class will select a policy solution of their own choosing to improve food's impacts on public health and write a 5 page, single-spaced policy brief asking a specific city or state government, or the federal government, to implement such a policy. Your brief should discuss what new law(s) or regulation(s) would need to be enacted, if any. Describe where the new policy, as well as any new law or regulation, would fit into existing policies, statutes or regulations, how they should be implemented and evaluated, and how they should be funded.

For example, students in previous semesters have proposed and analyzed policies on:

- Tackling Childhood Obesity with a Sugar-Sweetened Beverage Tax in California
- Adding Artificial Sweeteners and Sugar Alcohols to Nutrition Labels
- Creating Healthy School Zones to Restrict Unhealthy Food around Schools in Philadelphia
- Incentivizing Healthier Choices by Setting Nutritional Standards for Toy Giveaways in Boston

**\*\*\* Policy briefs are due online in the Assignments link on the course website by midnight on SUNDAY, NOVEMBER 18.**