

Teaching Food Law & Policy

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Because of our LL.M. Program at the University of Arkansas, we are fortunate to have a full complement of food law and agricultural law courses. This allows us to cover far more than students can cover in a J.D. curriculum, shifting different topics into their own courses. We also teach primarily one- or two-credit courses, with the hope of exposing our students to the widest range of different subjects.

I teach a two-credit *Food Law & Policy* class each fall, with both LL.M. and J.D. enrollment. I also teach *Food, Farming, & Sustainability* as a survey of agricultural law, focusing exclusively on the agricultural side of our food system. In the Spring, I teach *Federal Regulation of Food Labeling* and *Federal Regulation of Food Safety*, with each course drilling down more on specific issues of misbranding and adulteration. We also have a *Food Safety Litigation* course that is taught by food safety attorneys Bill Marler and Denis Stearns, of Marler Clark in Seattle, Washington.

My *Food Law & Policy* class provides the most replicable model for teaching in a J.D. program as a stand-alone course. The outline of topics covered is set forth below. I have developed my own reading materials for this course, and they are provided to the students electronically through course management software. I am in the process of compiling a published text that will incorporate these materials and pull resources from our related courses.

Note that there are areas where the coverage in this *Food Law & Policy* class is intentionally limited because topics are covered elsewhere in our curriculum. For example, the issue of genetically engineered products is covered in *Federal Regulation of Labeling*. The environmental problems associated with agricultural production of food crops is addressed in the *Agriculture & the Environment* course. Similarly, our students take a deeper look at food borne illness through the *Federal Regulation of Food Safety* and *Food Safety Litigation* courses. Federal nutrition programs also merit special attention in a separate course. *Food Justice* is also a separate offering, as is *Right to Food*. And, in general, agricultural law topics, many of which are central to our food system are addressed in specific agricultural law courses. A listing of food policy related courses that we have developed is provided after my food law & policy discussion to provide additional ideas for teaching.

Food Law & Policy Course
Outline of Topics

Topic of Study	General Description
Introduction to Food Law	Original writing that discusses how we define food culturally, how this definition differs, and what role food plays in society
Overview of our food system	Original writing that provides an overview of the various elements of our food system, beginning with agricultural production and ending with a consideration of the American diet
Overview of federal food regulation	<ul style="list-style-type: none"> • Introduction to the history of food regulation and the harms to be prevented; • Introduction to the regulation of food in the U.S., highlighting the bifurcation of authority between FDA and USDA as well as the involvement of numerous other federal and state agencies; • Introduction to the framework of federal statutory regulation, focusing on the concepts of misbranding and adulteration
Misbranding: Overview of FDCA “misbranding” and affirmative labeling requirements	<ul style="list-style-type: none"> • Review of the definition of misbranding, with both prohibitions and affirmative requirements; • Overview of the affirmative labeling requirements for food products
Consideration of “standards of identity”	<ul style="list-style-type: none"> • History of standards of identity; • Examination of the standards through the use of the Just Mayo dispute; • Discussion of current issues in dispute
Misbranding: Deceptive Labeling and Litigation under the Lanham Act	<ul style="list-style-type: none"> • Review of the labeling requirements for juice; • Introduction to the Lanham Act as an additional legal tool; • <i>Pom v. Coca-Cola</i>
Misbranding: Meat Labeling	<ul style="list-style-type: none"> • Introduction to meat labeling requirements • Introduction to special production claims • Case study of "raised without antibiotics"
Contrasting Approach: Organic & Natural Labeling	<ul style="list-style-type: none"> • Review of the organic standards and the public/private system of regulating the use of the term "organic" • Discussion of the use of "natural" in labeling with a review of FDA and USDA interpretations

Food Law & Public Health: Health Related Claims on Food Product Labels	Introduction to health claims, nutrient content claims and structure/function claims in product labeling
Public Health, Obesity, and Food Law	<ul style="list-style-type: none"> • Discussion of the obesity epidemic and societal costs associated with it • Discussion of public policy solutions
Adulteration: Overview - Introduction to Food Safety Regulation and “Deleterious” Substances;	Introduction to the statutory definition of adulteration, with a focus on pathogens;
Pathogens and Food borne Illness	<ul style="list-style-type: none"> • Introduction to foodborne illness, CDC • Discussion of the Jack-in-the-Box outbreak and its impact on food system • Examination of the different approach to pathogens FDA and USDA
Food that is “Injurious to Health”	<ul style="list-style-type: none"> • Discussion of contaminants and the regulation of added and non-added substances • Case study of arsenic in rice
Food Additives and GRAS	Review the development of new food ingredients, the definition of additives under the FDCA, and the GRAS approval process
Current Topics	Students select a final topic of study; recent topics include genetically engineered food products, raw milk, and cell-cultured meat

List of Specialized Food Law & Policy Courses Developed for the LL.M. Program

Introduction to the Law of Food & Agriculture

Orientation course that provides an overview of the legal and policy issues presented by the production of food and fiber, including a discussion of structural changes in agriculture, sustainability issues, and trends in consumer interest.

Agricultural Biotechnology

Study of the regulation of agricultural biotechnology, including the approval process for new technologies, the patenting of new products and technologies, and the restrictions associated with their use.

Agricultural Cooperatives and Local Food Systems

Introduction to the legal structure of a cooperative and examination of the recent use of the cooperative model in encouraging local and regional food systems.

Farmed Animal Welfare Law & Policy

Examination of the legal issues involved in determining welfare standards for animals raised for food. In addition to introducing federal animal welfare and humane slaughter laws, state referenda, state law standards, and so-called “ag gag” laws are studied.

Federal Nutrition Law & Policy

Study of federal nutrition policy, including the development of the federal nutrition standards, the framework for the food assistance programs, the federal school lunch program, and the government's efforts to encourage healthy eating.

Federal Regulation of Food Labeling

Study of the federal laws regarding the labeling of food, considering both FDA and USDA regulation. The course includes the study of nutrition labeling, health claims, advertising issues, and efforts to curb the obesity epidemic through educational labeling.

Federal Regulation of Food Safety

Study of the federal laws that regulate food safety, considering the FDA authority under the Food, Drug and Cosmetic Act, as expanded by the Food Safety Modernization Act and USDA authority to regulate meat and poultry safety. Current issues and concerns are addressed.

Food Justice: Law & Policy

Survey of the legal and policy issues raised by the food justice movement. Topics covered include food insecurity and poverty, public health concerns such as obesity, the economics of healthy eating, food deserts, and food waste.

Food Safety Litigation

Examination of food borne illness litigation with an initial introduction to food product liability followed by the study of actual cases brought against food manufacturers.

Legal Issues: Indigenous Food & Agriculture

Examination of the complex interaction of tribal law, treaties, and federal agricultural and food laws, including property law applicable to tribal lands.

Right to Food

An overview of the historical development of the right to food; evaluate the rights, obligations and responsibilities of rights-holders and duty-bearers of the right to food; and examine legal and non-legal mechanisms that are increasingly used to adjudicate the right to food.

Business, Human Rights and Corporate Social Responsibility in the Food/Ag Sector

Exploration of the business-human rights nexus with a particular focus on the food and agricultural sector and on case studies from around the world. The course introduces students to the linkages between business and human rights from a variety of (legal, regulatory, and policy) perspectives.

Urban Agriculture Law & Policy

Study of the legal issues raised by the rising interest in urban agricultural activities. Topics of study include land use and zoning issues, farmers market issues, and legal issues associated with community-sponsored agriculture.

Intellectual Property Issues in Agriculture and Food Law

Introduction to Copyright Law, Trademarks Law and Patent Law as applied to agriculture and food. Included are issues from Trademark Law, such as Certification Marks, Geographical Indicators, and Trade Dress, copyright laws on food recipes as well as copyright laws on food labeling.