**Class Meetings:** Tuesday, 5:00-8:00 PM

**Instructor:** Nicole E. Negowetti, 312-342-2887, nnegowetti@law.harvard.edu

**Office Hours:** TBD

**Semester Hour Units:** 3 SHUs


**Course Description:** This is an interdisciplinary course focusing on food law, an area where many important legal, environmental, economic, and social justice concepts intersect in our society. Students will engage in analysis of the following topics: national regulation of food (production, safety, labeling, and marketing); food and consumer rights; food technology and the law (biotechnology, genetic modification of crops and livestock); food production (including an overview of the farm bill, the National Organic Program, and alternative food systems); food, energy, and water; food, nutrition, and public health; and food justice, including issues of equity, food access, land and labor rights.

The course will introduce students to legal research, analysis, and writing. It will challenge students to understand and analyze a complex regulatory area where problem solving often requires careful assessment of various branches and levels of government (local, state, and federal), administrative authorities, and potential causes of action (statutory and common law). The course also explores the policy issues, intra-governmental relationships, and political dynamics that shape the regulation of food.

**Course Objectives:** This course is structured to teach substantive law and legal skills to help students understand the national, state, and local legal frameworks for the regulation of food. The course examines a variety of legal tools, including legislation, regulation, and litigation, that affect how food is grown, sold, manufactured, labeled, distributed, transported, and consumed in the United States.
Knowledge, Skills, and Values Learning Outcomes:

A. **Knowledge:** When challenged with a new set of food law facts, by the end of the semester students will be able to identify legal issues and accurately:

- **Identify and apply** the relevant legal rules (local, state, federal) and their exceptions;
- **Identify** relevant agencies and **assess** their authority (local, state, and federal) over the outcome;
- **Articulate** the policy goals and judgments made in applicable local, state, and federal law; and
- **Analyze the substantive laws** that impact how food is produced, sold, and consumed in the United States.

B. **Skills:** Throughout the semester, students will:

- **Practice fundamental legal skills such as reading** legal authorities (cases, statutes, and regulations) to **recognize and identify** legal rules, relevant facts, and reasoning to solve problems;
- **Conduct legal research** and **analyze** which legal sources are most relevant to particular issues;
- **Demonstrate their analysis and synthesis** of readings into coherent thoughts and **express those thoughts** in class discussion, debates, and written assignments.

C. **Values:** Throughout the semester, through readings and class participation, students will:

- **Practice professionalism** by being prepared for class, participating in discussions, and reflecting on how the topics relate to the student’s understanding of law.
- **Through class discussions, demonstrate an understanding** of the law as a change agent and reflection of social justice issues such as economic status and environmental health.

**Texts or Materials:** The required text for the course is *Food Law for Public Health* (2016) by Jennifer L. Pomeranz. Additional course readings such as legal cases, statutes, regulations, law review articles, and reports will be posted to Canvas.

**Academic Conduct:** Each student is responsible for upholding the highest standards of academic integrity, as specified in the Friedman School’s Policies and Procedures Handbook and Tufts University policies (http://students.tufts.edu/student-affairs/student-life-policies/academic-integrity-policy). It is the responsibility of each student to understand and comply with these standards, as violations will be sanctioned by penalties ranging from failure on an assignment and the course to dismissal from the school.
Use of Technology in Class: Computers are not permitted in class. Laptop screens can create a barrier between class discussants, discouraging interaction. In order to have open, engaged, and fully participatory discussions, please experience this class without your laptop.

Attendance: Because class participation is a significant component of your grade in this course, attendance is mandatory. Please inform the instructor via email or call if you must miss a class.

Assessment and Grading:

Grading for the course will be based on the below distribution:

<table>
<thead>
<tr>
<th>Activity</th>
<th>Contribution to Grade (%)</th>
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</thead>
<tbody>
<tr>
<td>Current Issues Paper</td>
<td>35</td>
</tr>
<tr>
<td>Current Issues Paper Presentation</td>
<td>10</td>
</tr>
<tr>
<td>Farm Bill Briefing Statement</td>
<td>10</td>
</tr>
<tr>
<td>Op-Ed</td>
<td>10</td>
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<tr>
<td>Mock Congressional Hearing</td>
<td>10</td>
</tr>
<tr>
<td>Class Participation: includes attendance, participation in class discussions and activities, and discussion questions (explained below).</td>
<td>25</td>
</tr>
</tbody>
</table>

Discussion Questions

For most classes, two to four student discussion leaders will each responsible for preparing **four to six discussion questions** for the class. Students will sign up for these classes at the beginning of the semester. The discussion leaders should post their questions on the Discussion forum on Canvas at least **24 hours prior** to class. It is not necessary for the questions to be particularly detailed—they should help your colleagues think critically about the material and consider the legal and political implications of the issue. These questions will be used to frame our discussions in class.

Current Issues Policy Paper

Students will be required to write a 6-8 page policy paper (including footnotes) analyzing a current issue related to food law. Policy papers should propose a legal or regulatory solution to an issue in the food system. Papers should be directed to a particular decision-maker, such as Congress, state legislature, federal agency, local health department, a court, etc., and should thoroughly discuss all applicable existing laws. Students should describe how the proposal would be implemented, challenges to implementation, and potential opposition from different interest groups. If applicable, papers should include discussion of analogous examples from other jurisdictions.
Ideas for papers include: analysis of any current or recently decided or pending food law case (which could include administrative law, product liability, consumer protection, trademark, patent, or other legal issues); analysis of current regulatory proposals (could include restrictions on SNAP to improve health outcomes, food labeling updates, “natural” labeling, dietary guidelines, organic standards, etc.); or analysis of recently passed or proposed legislation (could include reauthorization of child nutrition programs, farm bill, food related aspects of health care reform, food safety incidents or reform).

Grading Range:

A passing grade in the course is B- or better. Course grades will be based on the below (subject to revision during the course):

- A  > 94%
- A-  90 - <94%
- B+  87 - <90%
- B  84 - <87%
- B-  80 - <84%

Instructions for Submission of Assignments:

Assignments should be submitted via Canvas. If Canvas is not operational, the assignment should be emailed to the course instructor prior to the time the assignment is due. Students who are unable to complete an assignment or exam on time and are requesting an extension should notify the course director by email prior to the assignment deadline with a brief explanation for why the extension is needed. Assignments received after deadlines without approved extensions will not be accepted or graded.

Accommodation of Disabilities:

Tufts University is committed to providing equal access and support to all students through the provision of reasonable accommodations so that each student may access their curricula and achieve their personal and academic potential. If you have a disability that requires reasonable accommodations please contact the Friedman School Assistant Dean of Student Affairs at 617-636-6719 to make arrangements for determination of appropriate accommodations. Please be aware that accommodations cannot be enacted retroactively, making timeliness a critical aspect for their provision.
Friedman’s on-campus courses may be offered by Tufts WebEx (https://it.tufts.edu/webex) on days when the Boston campus is closed due to weather or a temporary cancellation issue. Students should expect to be notified by email in the event that class is cancelled and will be provided with the WebEx link for students to use for any remote class sessions. Also, any relevant course slides or materials will be made available on Canvas. The WebEx will be recorded and posted on Canvas when completed. If an on-campus Examination/Presentation was scheduled on a day when the Boston campus is closed due to weather or a temporary cancellation issue, the exam/presentation will be rescheduled for an alternate on-campus class session date.

**Diversity Statement:**

We believe that the diversity of student experiences and perspectives is essential to the deepening of knowledge in this course. We consider it part of our responsibility as instructors to address the learning needs of all of the students in this course. We will present materials that are respectful of diversity: race, color, ethnicity, gender, age, disability, orientation, gender identity, socioeconomic status, citizenship, language, or national origin among other personal characteristics.

**Course Topics and Assignment Schedule at a Glance:** This schedule is subject to modification at the instructor’s discretion.

<table>
<thead>
<tr>
<th>WEEK</th>
<th>DATE OF CLASS</th>
<th>COURSE TOPIC</th>
<th>ASSIGNMENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>TBD</td>
<td><em>What is Food Law?</em></td>
<td>Week 1 reading assignments</td>
</tr>
</tbody>
</table>
| 2    | TBD           | *Introduction to Food Regulation in the United States* | Week 2 reading assignments  
Overview of federal regulation of food  
Overview of state and local regulation of food |
| 3    | TBD           | *Food Labeling* | Week 3 reading assignments  
Bring 3 food labels to class  
Research pending food labeling lawsuit |
| 4    | TBD           | *Food Fraud* | Week 4 reading assignments |
| 5    | TBD           | *Food Safety Regulation & Enforcement* | Week 5 reading assignments  
Research FDA warning letters |
<table>
<thead>
<tr>
<th>Week</th>
<th>TBD</th>
<th>Topic</th>
<th>Reading Assignments</th>
</tr>
</thead>
<tbody>
<tr>
<td>6</td>
<td>TBD</td>
<td><strong>Agricultural Exceptionalism: Conventional Agriculture and the Farm Bill</strong></td>
<td>Week 6 reading assignments Briefing statement</td>
</tr>
<tr>
<td>7</td>
<td>TBD</td>
<td><strong>Agricultural Exceptionalism: Right to Farm, Ag-Gag &amp; Veggie Libel Laws</strong></td>
<td>Week 7 reading assignments</td>
</tr>
<tr>
<td>8</td>
<td>TBD</td>
<td><strong>The Regulation of Genetically Modified Foods and Food Produced Via Biotechnology</strong></td>
<td>Week 8 reading assignments Research novel food technologies and consider their regulatory frameworks</td>
</tr>
<tr>
<td>9</td>
<td>TBD</td>
<td><strong>Federal, State, and Local Regulation of Water Quality and Quantity</strong></td>
<td>Week 9 reading assignments</td>
</tr>
<tr>
<td>10</td>
<td>TBD</td>
<td><strong>Legal and Regulatory Solutions to Obesity and Food Insecurity in the U.S.</strong></td>
<td>Week 10 reading assignments Prepare for Congressional Briefing</td>
</tr>
<tr>
<td>11</td>
<td>TBD</td>
<td><strong>Legal and Regulatory Frameworks for Alternative Food Systems</strong></td>
<td>Week 11 reading assignments</td>
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<tr>
<td>12</td>
<td>TBD</td>
<td><strong>Food Justice and a Right to Food</strong></td>
<td>Week 12 reading assignments Op-Ed</td>
</tr>
<tr>
<td>13</td>
<td>TBD</td>
<td><strong>Legal and Regulatory Solutions to Food Systems Issues</strong></td>
<td>Prepare to present policy paper in class</td>
</tr>
</tbody>
</table>
Course Schedule, Readings, and Assignments

I. Introduction to Food Regulation

Week 1: What is Food Law?

Learning Objectives

1. Define “food law” and “food system.”
2. Identify legal and policy tools that shape the food system.
3. Identify key legal and policy issues in the U.S. food system.
4. Practice reading legal cases and identifying facts, the court’s holding (decision on a particular legal issue), and reasoning.
5. Understand how legal analysis can be utilized to evaluate and solve problems in the food system.
6. Discuss the role of the government in the food system.
7. Discuss how law influences the food system and how the food system influences law.

Required Reading

4. In re Starlink Corn Prods. Liability Litig., 212 F.Supp.2d 828 (N.D. Ill. 2002) (Read to understand the scope and breadth of regulatory agencies and authority – state and federal – that can be involved in a food law case).

Week 2: Introduction to Food Regulation in the United States

Learning Objectives

1. Discuss the different federal agencies involved in food regulation.
2. Understand the interplay between federal, state, and local regulation of food.
3. Discuss the role of state and local governments in food regulation.
4. Evaluate the role of federal, state, and local government in regulating different aspects of food production, sale, and consumption.
5. Research federal, state, and local government agencies.
6. Present relevant information about food regulation to the class.
7. Understand and explain fundamental Constitutional principles such as separation of powers, preemption, and freedom of speech.
Required Reading

1. Read excerpt from *The Jungle*

2. Pomeranz, Chapters 1-2


Assignments

1. *Overview of Federal Authorities Involved in Food Law Regulation*: Each student will be assigned a particular federal agency that plays a role in food regulation. Please research the assigned federal agency and prepare to brief the class on:
   a. Major areas of responsibility of your agency
   b. Major laws/regulations that they enforce
   c. “Hot topics” that the agency is involved in
   d. Other issues related to agriculture/food that you noted while researching

2. *Overview of Local & State Authorities involved in Food Law Regulation*: Research the state agencies involved in regulating food and agriculture of 2 of the following states: Massachusetts, California, Texas, Indiana, and New York. Identify each relevant agency, and its regulatory activities and programs. Be prepared to discuss how these agencies complement the federal regulatory system.

II. TRUTH & SAFETY OF FOODS: REGULATION OF LABELING AND CLAIMS

Week 3: *Food Labeling Laws and Regulations*

Learning Objectives

1. Practice closely reading statutes.
2. Practice closely reading legal cases to identify legal issues, holdings, and reasoning.
3. Evaluate holdings of cases and consider the implications of precedent to future cases.
4. Understand statutory laws and regulations for the labeling of foods.
5. Practice legal research of legal cases.
6. Understand the 1st Amendment constraints on the regulation of food labeling.
**Required Reading**

1. Pomerantz, Chapter 6
2. 21 U.S.C. §§ 321(k)-(n), (r), 341, 343
3. FDA’s Food Labeling Guide for Industry

**Assignments**

1. Bring to class labels from at least 3 different food products. Using the FDA’s Food Labeling Guide for Industry, students will work in small groups to imagine the role of food lawyers in advising food company clients about whether the labels are in compliance with existing regulations. Particular attention will be paid to the claims made on the labels and students will discuss whether the use of certain claims (“healthy,” “natural,” “whole grains,” etc.) are misleading.

2. Research one currently pending food labeling lawsuit. Review the pleadings and be prepared to summarize the allegations and analyze the strength of the claims.

**Week 4: Food Fraud**

**Learning Objectives**

1. Understand the laws and regulations regarding economic adulteration
2. Define “food fraud.”
3. Understand the scope of the food fraud problem and critically evaluate government responses.
4. Discuss legal, regulatory, and policy strategies to address food fraud.
5. Evaluate best approaches to address food fraud.

**Required Reading**

1. 21 U.S.C. §§ 321(f), 342, 343
**Week 5: Food Safety Regulation & Enforcement**

**Learning Objectives**

1. Understand the complex federal statute and regulations governing food safety.
2. Understand the interplay between federal, state, and local food safety regulation.
3. Evaluate the adequacy of the food safety system in the U.S.
4. Identify problems and challenges of the food safety system.
5. Consider alternatives to ensuring safety of food.
6. Understand and evaluate the FDA’s enforcement authority to ensure the safety of food.

**Required Reading**

1. Pomeranz, Chapter 5, questions on page 103 (be prepared to discuss in class).

**Assignment**

1. Review at least two FDA warning letters involving food at [https://www.fda.gov/ICECI/EnforcementActions/WarningLetters/2017/default.htm](https://www.fda.gov/ICECI/EnforcementActions/WarningLetters/2017/default.htm) and be prepared to discuss the alleged food labeling violation and the FDA’s recommended course of action to correct the violation.

**III. FOOD & AGRICULTURE**

**Week 6: Agricultural Exceptionalism: Conventional Agriculture and the Farm Bill**

**Learning Objectives**

1. Understand how the farm bill affects the U.S. food system.
2. Understand the various political interests that shape the farm bill.
3. Research specific farm bill programs.
4. Practice closely reading and analyzing statutes.
5. Research farm bill agenda of particular interest group.
6. Practice advocacy skills by role playing a farm bill debate.

**Required Reading**

1. Excerpts of 2018 (or 2019) Farm Bill

**Assignment**

1. **Briefing Statement:** Students will be divided into teams representing the different interest groups (e.g., FRAC, NSAC, Heritage Foundation, Farm Bureau, etc.) that have a stake in the farm bill. Each student should research one farm program that is particularly important to the assigned interest group. Write one paragraph that generally describes the mission of your interest group. Write another paragraph that explains how the farm bill program currently works (keep this broad). Then, in light of your assigned role, propose reform to the program and make a persuasive argument supporting your proposal. Your entire assignment must be less than two pages double-spaced. Students should be prepared to present their proposals in class.

**Week 7: Agricultural Exceptionalism: Right to Farm, Ag-Gag & Veggie Libel Laws**

**Learning Objectives**

1. Understand the special legal protections afforded to agricultural production facilities.
2. Evaluate the necessity of special legal protection for agricultural production facilities.
3. Consider the impacts of ag-gag and veggie libel laws on consumers, farmers, animals, and activists.
4. Evaluate and debate the legality of ag-gag laws.
5. Understand and evaluate the impact of industrial animal agriculture on the environment, worker health, social justice, and animal welfare.
6. Understand the impact of right to farm laws on rural communities
7. Evaluate the rationale for right to farm laws.

**Required Reading**

1. States’ Right-To-Farm Statutes, National Ag Law Center, [http://nationalaglawcenter.org/statecompilations/right-to-farm/](http://nationalaglawcenter.org/statecompilations/right-to-farm/)


5. Johns Hopkins Center for a Livable Future, *Industrial Animal Agriculture*. Read the following sections:
   - Waste management
   - Antibiotic resistance
   - Worker health, worker justice
Community impacts
- Animal welfare


7. Letter of Concern from EPA Civil Rights Office

**Week 8: The Regulation of Genetically Modified Foods and Food Produced Via Biotechnology**

**Learning Objectives**

1. Identify and understand the federal agencies, statutes, regulations, and policies that govern the safety and labeling of foods produced via biotechnology.
2. Understand the legal significance and difference between laws and policies that govern food biotechnology.
3. Evaluate the adequacy of the U.S. regulatory system in overseeing biotech food products.
4. Research emerging technologies and evaluate whether the U.S. regulatory system is prepared to oversee the development, safety, and sale of these food products.
5. Engage in legal analysis by applying existing regulatory frameworks concerning biotechnology to new applications.
6. Compare and evaluate the U.S. regulatory system with that of the European Union and other countries.

**Required Reading**

1. Update to the Coordinated Framework for the Regulation of Biotechnology (2017) (excerpts)

**Assignment**

1. Research at least 2 novel applications of biotechnology for use in foods and analyze the benefits of these technologies, as well as potential risks to the environment and human health. Consider how these novel technologies will be regulated under the Coordinated Framework. Be prepared to share your analyses with the class.

**Week 9: Federal, State, and Local Regulation of Water Quality and Quantity**

**Learning Objectives**
1. Understand legal issues surrounding water quality and quantity in the U.S.
2. Understand the role of federal, state, and local governments in water regulation.
3. Discuss and evaluate U.S. water policy and its relationship to agricultural policy.
4. Discuss and debate recent issues involving water quality affecting vulnerable populations.
5. Understand the relationship between food, water, and energy and its impact on the U.S. food system.
6. Practice reading cases to identify legal issue, holding, and reasoning.
7. Consider the impact of case law precedent on future policies and laws that address water quality issues.

Required Reading

1. Food, Water, and Energy: Know the Nexus
2. Agricultural Water, National Sustainable Agriculture Coalition (NSAC)

Week 10: Legal and Regulatory Frameworks for Alternative Food Systems

Learning Objectives

1. Understand the law and regulations governing the National Organics Program.
2. Identify current issues regarding organic foods.
3. Evaluate the proposed and withdrawn animal welfare rules for the organics program.
4. Define “alternative food systems.”
5. Consider the merits of alternative food systems and how legal frameworks can support those systems.
6. Identify legal and regulatory challenges of urban agriculture.
7. Propose changes to laws and regulations to promote more sustainable food production.

Required Reading
1. National Organics Program—An Overview, National AgLaw Center


7. Local and Regional Food Systems 101, Union of Concerned Scientists


IV. HEALTH, NUTRITION & HUNGER

Week 11: Legal and Regulatory Solutions to Obesity and Food Insecurity in the U.S.

Learning Objectives

1. Understand the influence of law and regulation on obesity and food insecurity in the U.S.
2. Understand and explain laws and regulations governing food marketing.
3. Evaluate and debate the use of legal tools—legislation, regulation, and litigation—to address obesity in the U.S.
4. Evaluate the use of legal tools to address food insecurity in the U.S.
5. Consider the appropriate role for the federal, state, and local government in addressing obesity and food insecurity issues.
6. Utilize advocacy skills to represent an interest group in a mock Congressional hearing.

Required Reading

1. Pomeranz, Chapters 7, 8, and 9


**Assignment**

Prepare for in-class Congressional Hearing about legislative solutions to the obesity epidemic. Students will represent different interest groups such as public health non-profits, food industry, academics, and libertarians and offer legislative solutions to address childhood obesity in the U.S. Students should prepare a 3 minute statement that summarizes their proposal and why it is likely to be effective. Other students will ask questions following the opening statements.

**V. FOOD JUSTICE, EQUITY, AND THE FUTURE OF FOOD**

**Week 12: Food Justice and a Right to Food**

**Learning Objectives**

1. Identify inequality issues across the food system.
2. Define “food justice” and understand how the concept applies to the U.S. food system.
3. Identify legal frameworks that result in food injustice.
4. Propose solutions for new legal and regulatory frameworks to promote food justice.
5. Understand the concept of a “right to food.”
6. Distinguish a “right to food” framework from U.S. legal, regulatory, and policy approaches to food system issues.
7. Apply a right to food to pressing problems in the food system, e.g., food insecurity, obesity, labor issues, and land loss.

**Required Reading**

Assignment

1. Write an Op-Ed (300-500 words) that addresses these questions: What does food justice mean and what’s your vision for the future of the food system? What would it mean to apply a right to food framework to food law in the U.S.? Be prepared to share your ideas in class.

Week 13: Legal and Regulatory Solutions to Food Systems Issues

Learning Objectives

1. Analyze food systems legal issues discussed throughout the semester and craft a legal or regulatory solution for one particular issue.

2. Present proposal and justifications for it to classmates.

3. Evaluate classmates’ proposals to food systems issues and ask questions regarding implementations, challenges, alternatives, etc.

Assignments

1. Policy paper due in the morning before class.

2. During class, each student with have 10 minutes to present his/her policy paper and be prepared to answer questions.