

A Call to Action: The New Academy of Food Law & Policy

Emily M. Broad Leib* & Susan A. Schneider**

For several decades, consumer interest in food and the system that produces it has been on the rise. This interest has more recently coalesced into a broad-based food movement that combines a diverse set of advocates.¹ The 1970s and 1980s can be viewed as the beginning of this movement when concerns were raised about the rise in industrialized farming, environmental degradation from agriculture, the increase of ultra-processed foods, and the “fast food” approach to eating. Leading voices were educators such as Joan Dye Gussow; authors, including Frances Moore Lappe, Wendell Berry, and Carlo Petrini; and chefs such as Alice Waters. Others soon joined the ranks of those focused on food.

Law schools did not play a dominant role in the food movement until the early 2000’s. Since that time, however, they have helped to provide critical analysis of the role that law plays in shaping the food system. A 2014 article, *Food Law & Policy: The Fertile Field’s Origins & First Decade*, chronicles how law professors reacted to the food movement and created the new discipline of Food Law and Policy, building largely on the pre-existing fields of Food and Drug Law and Agricultural Law. Today, a Food Law & Policy class is taught in many law schools across the country. In addition, Food Law & Policy clinics provide experiential opportunities and LL.M. programs provide

* Emily M. Broad Leib is an Assistant Clinical Professor of Law and Director of the Harvard Food Law and Policy Clinic, and Deputy Director of the Harvard Law School Center for Health Law and Policy Innovation.

** Susan A. Schneider is the William H. Enfield Professor of Law and the Director of the LL.M. Program in Agricultural and Food Law at the University of Arkansas School of Law. Professors Broad Leib and Schneider serve as co-chairs of the Board of Trustees of the Academy of Food Law & Policy.

1. Susan A. Schneider, *Moving in Opposite Directions? Exploring Trends in Consumer Demand and Agricultural Production*, 43 MITCHELL-HAMLIN L. REV. (forthcoming 2017).

attorneys with specialized training. Student interest is visible in the rising number of student food law societies and student-led conferences addressing topics across the food system.²

While Food Law & Policy courses vary significantly, each emphasizes the important role that law plays in framing the food system. Food safety, food labeling, and the approval of food and drugs for the livestock industry are among the areas regulated by the Food and Drug Administration under the Food, Drug, and Cosmetic Act,³ whereas food safety for most meat and poultry products is regulated by the U.S. Department of Agriculture.⁴ The pesticides used on food crops are regulated by the Environmental Protection Agency under the Federal Insecticide, Fungicide and Rodenticide Act,⁵ and the treatment of farmworkers, food production workers, and restaurant workers are governed by various provisions of federal and state labor laws.⁶ In addition, the Farm Bill has a profound impact on the crops that are grown, the agricultural practices used, and the research undertaken, as well as funding some of the major nutrition programs.⁷ The Clean Water Act regulates emissions of pollutants into the nation's waterways, though it exempts many agricultural practices from regulation and imposes only minimal requirements on industrialized animal operations.⁸ According to the Government Accountability Office (GAO), fifteen different federal agencies administer at least thirty federal laws relate to food safety alone, and many more agencies and laws impact the full breadth of the food system.⁹

2. Baylen J. Linnekin & Emily M. Broad Leib, *Food Law and Policy: The Fertile Field's Origins & First Decade*, WIS. L. REV. 557 (2014).

3. 21 U.S.C. §§ 301-399h (2012).

4. The Federal Meat Inspection Act, 21 U.S.C. §§ 601-695 (2012), regulates the safety and labeling of most meat products; The Poultry Products Inspection Act, 21 U.S.C. §§ 451-472 (2012), regulates the safety and labeling of poultry products. Note as well that the Egg Products Inspection Act, 21 U.S.C. § 1031-1056 (2012), gives the USDA the authority for the regulation of the safety of liquid, frozen, and dried egg products.

5. 7 U.S.C. §§ 136-136y) (2012).

6. *See, e.g.*, 29 U.S.C. § 203 (2012); 29 U.S.C. § 213(b) (2012); *and* 29 U.S.C. §§ 1801-1864 (2012).

7. Agricultural Act of 2014, Pub. L. No. 113-79, 128 Stat. 649 (2014).

8. The Federal Water Pollution Control Act (Clean Water Act), 33 U.S.C. §§ 1251-1387 (2012).

9. U.S. Gov't Accountability Office, GAO-15-290, High Risk Series: An Update 262 (Feb. 2015), <http://www.gao.gov/assets/670/668415.pdf>.

Each of these laws is complex, with both intended and unintended consequences on food. Legal expertise is critical to interpreting, challenging or demanding enforcement of existing laws. It is also critical to the proper drafting of new statutes and regulations that, either intentionally or unintentionally, shape our food system. As the Trump administration and the Republican-controlled Congress deliver promised changes to these laws and adopt policies that impact our food system, the law professors who teach and write in the area of food law & policy will be uniquely qualified to analyze and debate the legal issues presented.

Assisting with these efforts is the Academy of Food Law & Policy. This new academic membership association was launched in 2016 to:

- 1) Engage and connect teachers and students interested in Food Law and Policy;
- 2) Facilitate research, scholarship, collaboration, and collegiality in Food Law and Policy;
- 3) Encourage teaching and experiential learning opportunities in Food Law & Policy; and
- 4) Foster the next generation of Food Law and Policy leaders.

The Academy seeks to support local, regional, national, and international collaboration and to promote teaching and engagement in Food Law & Policy issues through workshops and shared resources. By building a strong network, the Academy will provide the opportunity for sharing ideas, knowledge, and research.¹⁰

A diverse group of thirteen law schools signed on as Founding Institutional Members of the Academy.¹¹ Seventy-

10. The Academy of Food Law & Policy, <http://www.AcademyFLP.org>.

11. Academic sponsors who are designated as Founding Institutional Members are the University of Arkansas School of Law; Berkeley Law, University of California;

three law professors joined as Founding Members.¹² The founding Board of Trustees includes food law and policy leaders from across the country.¹³ The Academy was incorporated in the State of Arkansas, with its first administrative home at the University of Arkansas School of Law.¹⁴ Section 501(c)(3) non-profit status was attained.

The legal issues presented throughout the food system are significant, and they are increasing in complexity and consequence. They affect the quantity, quality, accessibility, affordability, and the very character of the food we eat as well as the environment from which food is produced. The Trump administration has promised “change” and this change will undoubtedly affect the food system in a variety of ways. Engagement in teaching and writing in this area has grown throughout the legal academy, and students have demonstrated interest in studying and eventually practicing law in this area. The Academy of Food Law & Policy can bring together a wide range of expertise to analyze these issues and then respond to proposed changes.

The Board of Trustees encourages interested professors to join with us. For information on becoming a member, visit the Academy’s website at AcademyFLP.org

University of California, Los Angeles (UCLA); Drake University Law School; Harvard Law School; Elizabeth Haub School of Law (Pace University); North-West University (Potchefstroom Campus), South Africa; The University of Oklahoma College of Law; Vermont Law School; West Virginia College of Law; the Environmental Law Program at the University of Hawaii (William S. Richardson School of Law); Yale Law School, and the School of Law at National Chiao Tung University. The Academy of Food Law & Policy, Academic Sponsors, <http://www.AcademyFLP.org>.

12. The Academy of Food Law & Policy, <http://www.AcademyFLP.org>.

13. The Members of the Founding Board of Trustees for the Academy are Emily Broad Leib, Harvard Law School; Peter Barton Hutt, Covington and Burling (Adjunct Faculty, Harvard Law School); Neil Hamilton, Drake University Law School; Baylen Linnekin, George Mason Law School; Michael Roberts, UCLA School of Law; Susan Schneider, University of Arkansas School of Law; and Margaret Sova McCabe, University of New Hampshire School of Law. The Academy of Food Law & Policy, Board of Trustees, <http://www.AcademyFLP.org>.

14. The location is fitting, as the University of Arkansas School of Law was first to offer a “Food Law & Policy” class in its LL.M. Program in Agricultural & Food Law, following the lead of its visiting professor, Neil Hamilton who taught Food and the Law at Drake University Law School. Linnekin & Broad Leib, *supra* note 3 at 590.