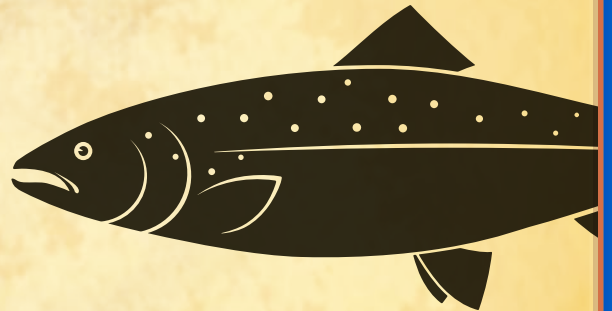


ROOTS OF CHANGE



Food Policy in Native Communities



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DEVELOPMENT INSTITUTE



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This report was authored by A-dae Romero-Briones, Associate Director of Research and Policy, Native Agriculture, and Raymond Foxworth, Vice President of Grantmaking, Development and Communications, both at First Nations Development Institute. We thank Catherine Bryan, Senior Program Officer at First Nations Development Institute, for her insightful comments and direction in the drafting of this report.

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INTRODUCTION

The food sovereignty movement in Indian Country has been spurred by the hard work and dedication of reservation-based community and nonprofit organizations and forward-thinking tribal governments. All are looking to sustain and protect traditional food sources, control local food systems and improve community, nutrition, health and economies. Increasingly, these various groups within the food movement in Indian Country are examining how tribal policy and legislation can be used to change behaviors related to diet, health and economy and increase regulatory control over local food systems.

The organizing efforts of tribes and community groups bring to light several important questions about tribal food policy and legislative authority, including:

- 1) What is the history of law and policy in Native communities, especially related to food policy development?
- 2) What is food policy in Native communities?
- 3) Can we identify factors that may stimulate and stall food policy development and effectiveness in Native communities?

In this report, we attempt to address these questions and provide a greater understanding of tribal food policy development across Native communities. This report is not intended to be an extensive review of the legislative interaction between tribes and the federal government. Rather it is a starting point to further the conversation about the opportunities and challenges that Native nations may face when examining and enacting recent food policies.





Our goal is to identify common trends and themes that have emerged in the various, more recent food policy movements across Indian Country to help others who may look to engage policy as a tool to further Native food sovereignty and local food system control. The development of food policy can be a laborious and expensive process and can involve a variety of internal and external actors and processes.

One group that has gained widespread national attention is the Diné Community Advocacy Alliance (DCAA), a grassroots community group located on the Navajo Nation. In 2014, after more than four years of community organizing, DCAA and the Navajo Nation passed two pieces of historical legislation that did the following:

- Navajo Nation Council Resolution CJA-05-14 removed the Navajo Nation's 5% sales tax on healthy foods sold on the Navajo reservation, including fresh fruits and vegetables, water, seeds, nuts and nut butters, and;
- The Healthy Diné Nation Act (HDNA) of 2014 is an additional 2% sales tax on top of the current 5% Navajo Nation sales tax on unhealthy foods in all retail locations on the Navajo Nation.

The Healthy Diné Nation Act was originally vetoed in 2014, but after more than a year-long legislative tug-of-war, DCAA helped Navajo become the first government in the United States to successfully pass sweeping legislation that would encourage the consumption of fresh and healthy foods and also tax unhealthy foods, whereby tax funds would be reinvested in community wellness projects.¹

In addition to DCAA's efforts, other Native nations around the U.S. have developed food legislation, policy and ordinances to exert sovereign powers over local food systems. The Yurok Tribe in California passed the most recent example. In 2015, the Yurok Tribe passed the

¹ The Healthy Diné Nation Act of 2014 (HDNA) was signed into law on November 21, 2014. Similarly, on November 4, 2014, the City of Berkeley, California, passed a tax on sugar-sweetened beverages through ballot initiative. This tax went into effect on January 1, 2015. Under the HDNA, the consumer pays the tax on junk food whereas in Berkeley the distributor pays the tax. We consider Navajo the first tax because the Navajo Nation legislature actually passed the HDNA during their winter session in December 2013. However, the Navajo president vetoed the tax legislation in January 2014. The tax legislation was then reintroduced and passed in November 2014.

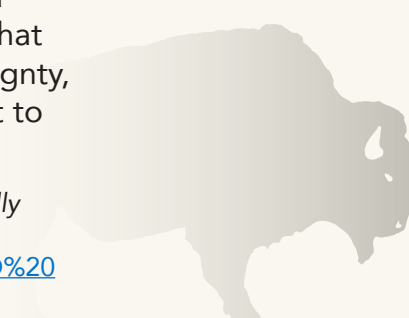
Genetically Engineered Ordinance (GEO). This first-of-its-kind tribal ordinance prohibits the growth of genetically modified crops and the release of genetically engineered salmon within the tribe's territory and waters.²

These are but two examples of how tribes are looking at how policy and legislation can increase Native nation control over local food systems. These efforts by Native nations are innovative expressions of sovereignty that tribes are utilizing to fight food monopolies, food-related health issues, external regulations, and to stop the disruption of traditional food systems.

In most instances, food policy development and enforcement in the larger society has come at the national and state levels. The United States Department of Agriculture (USDA) and the Food and Drug Administration (FDA) have developed national food codes and policies that are applied nationally. In addition to federal regulations, states can also develop regulatory policies around food, including food production and distribution (in many instances coming from state health policies enforced by state health departments). For example, the USDA has developed national policy frameworks around processes like conservation planning, farm-to-school programs and has started conversations around organic certification. But regional USDA offices enforce and regulate policies locally. They also have some latitude in adjusting practices to localities, and often control regional budgets that may address local needs and local environmental factors. In addition to regional and local enforcement and regulatory powers, in many instances these agencies also control state-specific grant programs.

As more national attention has been given to food and agricultural issues — such as labeling laws for genetically engineered and modified foods — various food and beverage-related interest groups have attempted to exert political influence on food policy at both the state and national levels. All this is to say that, while food policy typically emerges nationally, in many instances there is a complex regulatory, enforcement and funding process that typically does not include consideration of tribal sovereignty, policy or authority. Moreover, as various groups attempt to

2 Yurok Tribal Council (2015, December 10). *Yurok Tribe Genetically Engineered Organism Ordinance*. Retrieved from <http://nctcc.org/Page.aspNavID=16>, <http://nctcc.org/Files/Yurok%20Tribe%20GEO%20Ordinance%20Final%20Signed.pdf>



exert power and influence over food policies, food policies are developed within various bureaucracies without much interaction or consultation with tribal leaders or tribal producers.

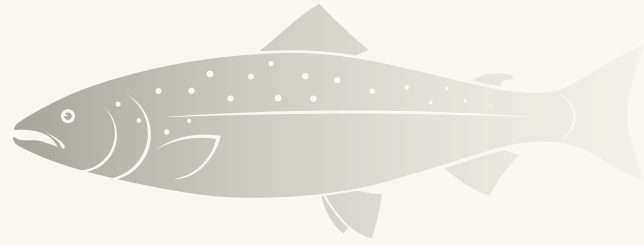
However, Native nations are not standing idle. They are increasingly looking for ways to exercise their inherent sovereign powers and create tribal food policies. Conservatively, more than 108 Native nations have enacted some form of policy that relates to food, land management, gathering, traditional food access, and business development of food retailers. The food policies of Native nations empower tribes to protect their food (traditional or otherwise), land and natural resources from federal, state and corporate systems that attempt to claim control and jurisdiction over these Native assets.

Traditionally, tribal people have held deep personal and spiritual relationships with food. Many communities continue to center social organization and power structures around food. Various Native nations and communities revere food as a non-human relative that plays a critical role in community.³ In recent years, tribal communities have sharpened their focus on the intersections of food, health, environment, economy and community. This focus has been spurred by mounting social and community issues like income and health inequities, climate change, pesticide spillover, food monopolies, federal oversight of agricultural practices, genetically modified organisms (GMOs), drought and more. In the face of these complex and perennial challenges, many tribal communities are giving thoughtful contemplation and taking action to exert more control over their local food system and change the behavior of their people who participate within those food systems.

Law and policy may seem like an obvious answer to asserting control and communicating sovereignty of a food system to various constituents. But policy is one tool of many, and it's a tool that comes with a host of unique opportunities, challenges and considerations.



3 Cajete, G. (2000). *Native Science: Natural Laws of Interdependence* (pp. 108-115). Santa Fe, NM: Clear Light Publishers.



DEFINING POLICY

Public policy is defined as a system of laws, regulatory measures, courses of action, and funding priorities concerning a given topic promulgated by a governmental entity or its representatives.⁴ In other words, public policy includes a collection of laws, mandates and regulations created through defined political processes by which government maintains order and also addresses the needs of citizens. Policy is rooted in law and authority and can be regulatory, punitive, distributive, material or symbolic. It is a tool that maps out courses of action to address public concerns and influence behavior. However, some of the most important policy steps begin prior to any policy enactment. Community organizing and even fundraising for the promulgation of policy can be social movements in and of themselves.

In tribal communities, policy comes in many forms. Perhaps the most symbolic of policy enactment is the tribal resolution in which a formal decision of the governing body is articulated in written form. Other forms of policy can include funding mandates that could be written into an operational budget itself or written as budget agreements. The most extensive policy actions are in the form of formal written codes that carry enforcement powers that are often enforced by courts, tribal or otherwise.



4 Kilpatrick, D. G. (2000). Definitions of Public Policy and Law. National Violence Against Women Prevention Research Center. Medical University of South Carolina. Retrieved from <https://mainweb-v.musc.edu/vawprevention/policy/definition.shtml>

DINÉ COMMUNITY ADVOCACY ALLIANCE (DCAA): GRASSROOTS ADVOCACY AND COMMUNITY CHANGE

In January 2014, DCAA made national headlines by urging the Navajo Nation to pass the Healthy Diné Nation Act. This legislation had two goals: 1) To implement a two-percent sales tax on unhealthy foods and sweetened beverages to discourage their purchase and consumption. Revenue collected from the unhealthy foods tax would be deposited into a Community Wellness Development Projects Fund and used by Navajo Nation communities to develop health and wellness programs for tribal communities, and 2) Eliminate a five-percent sales tax on fruits, vegetables, nuts, nut butters, seeds and water sold on the Navajo reservation. After successfully gaining support from the Navajo legislature, the Navajo Nation became the first in the U.S. to pass such sweeping legislation. After gaining legislative approval, DCAA was confident that the Navajo Nation President, Ben Shelly, would sign the legislation into law. But nearly two week after passage, President Shelly vetoed the Healthy Diné Nation Act of 2014.

In April 2014, DCAA was successful in gaining legislative approval to overturn one provision of the presidential veto and Navajo became the first in the Nation to eliminate sales tax on healthy foods sold on the reservation, including fresh fruits, vegetables, nuts, nut butters, seeds and water. Unfortunately DCAA was not able to gain necessary votes to pass the unhealthy foods provision of the Healthy Diné Nation Act.

Seven months later, in a monumental victory, DCAA was able to secure legislative support from the Navajo legislative body and pass legislation to implement an additional two percent sales tax to the current five percent sales tax on junk food, sweetened beverages and fast foods sold on the Navajo reservation.

All revenue collected from this consumer tax goes back to the 110 Navajo chapters to support community wellness projects for Navajo citizens.



While formal written codes carry the most power, they are also expensive. Formal written codes not only require enforcement capabilities from either the court system or law enforcement, but most written codes require some professional expertise to write the codes and content and may also carry an education component that will allow the community to be informed of the change in law.

Within many modern tribal governments, public policy is often written, taking the form of law or legislation, and intended to structure norms, behaviors and funding priorities. But many Native nations continue to hold on to traditional governing structures or may blend “modern” and

traditional ways in the policy-making process. In the latter, norms of interaction may not always be explicitly written. In these instances, public policy may not be easily recognizable to outsiders and is often codified in socio-cultural norms and may be communicated in the most personal spaces such households and ceremony. This blend of policy making makes tribal policy especially unique. Moreover, what makes tribal policy unique is that many tribes have rights codified in treaties related to food, including food access and natural resources that impact food sources. In many cases, codifying treaty rights into law and policy has been an exceptional starting point for the making of tribal food policies.

While established government entities enact laws, make policy and allocate resources, groups and individuals can also influence and shape public policy through education, advocacy, public pressure, direct mobilization and lobbying. In many instances groups of people within communities may organize themselves around an issue and seek to educate policymakers and the public on an issue and compel government officials or cultural leaders to act. In these cases, policymakers develop and enact policy as a response to group pressures and, in many cases, allocate resources based on these external pressures. In many tribal communities this is no different. Grassroots or other issue-focused groups can and do emerge to pressure government to enact policy or take action around specific issue areas. Policies passed by groups like Fine Community Advocacy Alliance and Mvskoke Food Sovereignty Alliance are but two examples.

As one specific subset of public policy, food policies are “legislative and administrative decisions of state and local governments designed to influence the operation of the food and agricultural system and to create



YUROK TRIBE IN CALIFORNIA BANS GENETICALLY ENGINEERED SALMON

The Yurok Tribe remains one of the few tribes that have maintained its presence in its ancestral homelands in California. This presence is a great feat as California Indian history epitomizes the cruelties of American settlement in Indian territories. The Yurok Reservation is located approximately five hours north of San Francisco along iconic Highway 101. This scenic drive parallels the Klamath River and consists of decades-old redwood trees, breathtaking coastal views, and fresh inland waters that are home to both the Yurok people and one of the most iconic fish in the world: the Pacific Salmon.

On December 10, 2015, the Yurok Tribe passed tribal legislation banning genetically engineered salmon and plants, essentially making it the first tribal food and agricultural code in the country. Stephanie Dolan, one of the primary authors of the Yurok Tribe’s Genetically Engineered Ordinance (GEO), said: “The main goals in creating this code are to prohibit GE salmon from crossing into Yurok county, prohibit GE crops from being planted, grown or harvested in Yurok Country, create an advisory committee to look at reducing pesticide use on the reservation (which impacts all of the plants, animals and health of the Yurok people) and to encourage other tribal communities to exercise their jurisdiction.”

opportunities for farmers, marketers and consumers.”⁵ Most mainstream local food policies are limited to land use, promotion of certain kinds of foods, water use, zoning, funding and promotion of certain types of agricultural or food businesses. But tribes are expanding the definition of food policies. Tribal food policies are currently being used to change behaviors, to influence food consumption, to focus on traditional food systems, and also to influence healthier communities.



NATIVE NATIONS AND FOOD POLICY

Native nations are passing food policies to increase regulatory authority that not only serves similar functions as in other U.S. cities and states, but takes food policy further to alter behavior, consumption and prioritize healthy community development. The Healthy Diné Nation Act of 2014 passed by the Navajo Nation and the Genetically Engineered Ordinance passed by the Yurok Tribe in California in 2015 are some of the most recent cutting-edge and widely publicized examples of tribal food policy.

But other Native nations have passed food policies, including the Muscogee (Creek) Nation in Oklahoma and the Lummi Nation of Washington. In 2010, the Muscogee (Creek) Nation passed the Mvskoke Food Sovereignty “Food and Fitness Policy.” The policy resulted from the work of the Mvskoke Food Sovereignty Initiative, a community-based, nonprofit organization working to reduce food insecurity and promote food sovereignty efforts locally. Similarly, in 2004, the Lummi Nation of Washington passed the “Stop-the-Pop” Resolution (Resolution #2004-149), prohibiting the purchase of sugar-sweetened beverages for tribally sponsored events.

While these are recent examples of food policies, at least 58 other tribes have passed land- and water-use policies that

5 Hamilton, N.D. (2000). Putting a Face on our Food: How State and Local Food Policies can Create New Agriculture. *Drake Journal of Agricultural Law*, 7(20), 407-53.

MUSCOGEE (CREEK) NATION OF OKLAHOMA AND THE FOOD AND FITNESS POLICY

Tribal leaders worked with the Mvskoke Food Sovereignty Initiative – an independent, grassroots Native organization – to establish the Food & Fitness Policy Council, which was signed into tribal law in September 2010. Since then, the Policy Council has successfully led the adoption of a new procurement policy that allows tribal programs to purchase locally grown, fresh fruits and vegetables directly from farmers. The new tribal policy, passed in 2012, is seen as a first step toward helping community members choose more healthy foods.

also affect food sources.⁶ Moreover, some of the oldest written food policies appeared in the late 1970s when some tribes started to codify their hunting and fishing treaty rights into tribal code. Additionally, many tribes have implemented breastfeeding policies in an effort to increase access to positive food and nutrition for young children.

What this brief discussion demonstrates is that while food policy is one tool for improving communities, there is wide variation in the timing and intent of food policies across Native nations. For some communities, food policies are not new and have long been focused on the preservation of treaty-protected assets and other traditional ways of life. Whereas other communities have only recently started to look at food policy as a tool to engage policy leaders to solve new and current pressing issues of health, environment and economy.

For example, the Northern California Tribal Court Coalition (NCTCC) is working to develop innovative policies that will strengthen tribal control over unregulated chemical pesticides on and around tribal lands. These policies will attempt to alter pesticide drifts that take place around Native lands. According to the NCTCC and its member tribes, these kinds of policies are critical for tribes to safeguard the health and well-being of youth, elders, mothers and vulnerable individuals within its jurisdiction. Also, to ensure that land- and water-based food resources can be safely harvested and consumed.



6 Aiken, G., & Parker, K. (2012). Tribal Food Policy: Envisioning a sustainable, secure and sovereignty food system: Best practices & Resources. Retrieved from <http://tribalfoodpolicy.tumblr.com/>

Policy Frame and Intent	Policy Examples
Control traditional and treaty protected food systems	<p>Sault St. Marie Tribe codified treaty and fishing rights as early as 1977.</p> <p>Confederated Siletz Tribe has a written policy to provide hunting, fishing and gathering rights 1) to preserve cultural traditions with a special emphasis on teaching young people cultural traditions, 2) to provide adequate food for tribal gatherings, the needy and elderly, and 3) to provide opportunities for tribal members and families to provide for themselves.</p> <p>Little Traverse Bay Bands of Odawa Indians codified the Prohibition of Patenting of Natural Organisms within tribal jurisdiction to protect the health, welfare and economic security of the tribe.</p>
Control local markets and alter consumer incentives for healthy food consumption	Navajo Nation passed the Healthy Diné Nation Act of 2014
Control how tribal dollars are spent	<p>Lummi Stop-the-Pop Policy</p> <p>Cheyenne River Sioux - Grocery Marketing Corporation</p>
Strengthen tribal regulatory authority	<p>Ongoing work by various tribes and national organizations, like the Indigenous Food and Agriculture Initiative, to create tribal food codes and to strengthen regulatory capacity.</p> <p>Yurok Tribe in California bans genetically engineered salmon within its tribal jurisdiction.</p> <p>Salt River Pima Maricopa Indian Community adopted the Federal Drug Administration’s Food Code, but delegated regulatory authority to the tribal government.</p>

**LUMMI NATION OF WASHINGTON’S
“STOP THE POP”**

Collaborating with the Lummi Indian Business Council, tribal government approved and signed a resolution called “Stop the Pop,” designed to encourage healthy beverage choices to reduce health care problems and costs. The resolution (#2004-149) prohibits using tribal money to buy pop and sugar-sweetened drinks for meetings or events, removes such drinks from vending machines in schools, and encourages serving fresh produce at tribal events.



TRADITIONAL KNOWLEDGE SYSTEMS

Aside from the promulgation of law and legislation, most Indian nations also have traditional norms and laws that structure behavior and prioritize community needs. These knowledge systems related to food are unwritten rules and norms that also structure behaviors and lifeways. One strong example of this is in Pueblo communities where certain foods are harvested and prepared for specific occasions as part of long-standing traditional beliefs. Most Native nations have knowledge systems intact that define expectations and values of the community related to food, although the strength of those norms may vary by community. These kinds of norms and policies are much harder to recognize, evaluate or change because they are ingrained in everyday life and often happen in personal spaces.

Some Native nations have taken steps to integrate traditional knowledge systems into codes. For example, the Confederated Tribes of the Umatilla Indian Reservation enacted an environmental health and safety code that includes chapters on food sanitation, bed-and-breakfast establishments, dog control and sewage control, among others. This policy begins with following Tribal Health Philosophy (Chapter 1, Section 1.025):

The following statement is the tribal health and safety policy that shall govern the interpretation and administration functions of this Code: Spiritually, we do not separate ourselves from the surrounding natural world. Therefore, the land, air, water and natural resources of the Umatilla Reservation must be maintained in a healthy and safe condition to sustain all forms of life using both traditional ways and modern technology. We recognize that the responsibility to intervene in human activities that create an unhealthy imbalance in nature is essential to protecting all natural resources.

What this discussion suggests is that traditional knowledge systems cannot be excluded from discussions of tribal food policy. Traditional knowledge systems provide a framework for understanding the relationship of food in local communities that were once self-sufficient and self-sustaining. Though colonialism has disrupted these self-sustaining ecosystems, traditional knowledge may provide a unique framework for developing current policy tools to reclaim local food systems.



Questions and Considerations for Tribal Food Policy Development

<p>Map out treaty rights</p>	<p>Treaties provide a good starting point for mapping out food systems. This can include mapping out assets related to food sources and food access.</p>
<p>Traditional knowledge</p>	<p>Traditional knowledge systems can help with understanding the local ecosystem prior to colonization, and also understanding how traditional knowledge can influence actions and behaviors for contemporary challenges.</p>
<p>Assessment can be an effective tool for policy development</p>	<p>Many of the communities that have passed food policies have started with some sort of assessment to identify needs, goals and opportunities for policy intervention. This gives baseline data on the status of the issue being addressed and can map out opportunities to move forward that may or may not involve policy development.</p>
<p>Who is the policy serving? Who will the policy impact?</p>	<p>An important step in food policy development is understanding who the policy is serving. Is the food policy going to target and serve tribal citizens, tribal infrastructure, and the economy, etc.? Once the target(s) of policy have been identified, you can begin to think about how rules, regulations and other interventions can be developed and designed to best serve or alter behaviors. In this process, map out who the policy will impact, how the policy may have unintended impacts, and how to mitigate those effects. Having a clear vision of who a policy will serve can help tribal governments and citizens think about how to excite people about policy and map out why individuals or groups may oppose a potential policy.</p>
<p>What is the goal of the policy? What are the intended outcomes?</p>	<p>Every policy should have a clearly articulated and identified goal. The identification of a goal will help communicate to lawmakers and the public about the need for a policy and how it should have a positive effect in altering current conditions.</p>

<p>Who are your policy parameters?</p>	<p>Policy parameters define the boundaries of your policy – e.g. who or what is included or excluded from a potential policy. Defining these parameters can be useful in the identification of the policy environment, including the mechanisms for enforcement, accountability and the overlapping of tribal policies. Identification of parameters should include identification of state and federal parameters for potential policy development and areas of conflict and overlap.</p>
<p>Are there traditional laws, norms or teachings that can help inform policy development?</p>	<p>Mapping out traditional or cultural norms and practices can help identify ways your community has historically handled certain issues around food. This may yield insight into how policy or regulatory interventions can be codified and put into written law.</p>
<p>Empower the voice of the people</p>	<p>How will community input and buy-in happen to garner community support for the implementation of a policy? Empowering people is a fundamental part of the policy process and important in rebuilding strong and healthy Native food systems.</p>
<p>How do you get your tribal government on board?</p>	<p>Ultimately tribal governments will be the body to enact policy. How will you get its support, buy in and commitment to implement after a policy is passed?</p>



WHAT ARE SOME FACTORS THAT MAKE FOOD POLICIES SUCCESSFUL?

The developments in tribal food policy have opened up exciting opportunities to further food policy development in Native communities. What are the factors that make food policy development and implementation successful? In the section below we draw on the policy examples discussed throughout this paper and try to synthesize some factors that have made food policies successful.



Factors that Influence the Momentum of Food Policy

Informed Citizens and Support: When citizens play a role in demanding and designing a policy, food policies tend to be more successful. This means there must be a continuous public education and engagement component within food policy development.

Framing of the Issue Matters: How are the issues of food, diet and health framed in policy development and in education? Tribal governments have a list of policy priorities and preferences, as do tribal citizens, and the way issues are framed can help galvanize or stall support around a food policy. Framing matters because a food policy may have opposition, so organizers must understand how others will challenge a proposed policy.

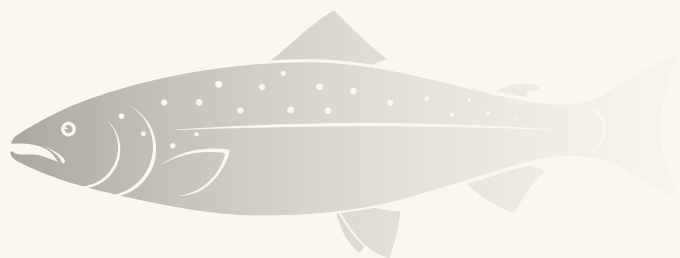
Allies Matter: Grassroots groups can be very effective at organizing citizens, raising the salience of social issues and elevating the need for a policy. But they may need allies to get policy passed, to combat opposition, and to pressure governments to listen to grassroots groups. Allies can include cultural leaders and groups, outside organizations and other policymakers.

Capacity, Enforcement and Accountability: Food policies tend to be more successful when issues of capacity needed for enforcement and mechanisms for accountability are developed in advance. This includes thinking about bureaucratic capacity and other resources like staffing, money and technical experience.

Peer-to-Peer Mentorship: Some of the most successful grassroots projects have been due to peer-to-peer mentorship and relationship-building between tribal communities, project managers and community organizers. Creating “networks of practice” saves time, energy and resources at the basic organizational level.

Education: Tribes and grassroots groups need to continuously look at the food policy landscape to educate themselves on the new science and other technical information to strengthen their local knowledge base while keeping in balance with their traditional knowledge systems. The integration of this knowledge and education can be used for their policy development, implementation and enforcement.

Data Matters. Tribal governments want data and what the data can tell them which, in turn, reinforces effective policy.



What Can Stall the Success of a Food Policy?

Food Policy as a Tribal Priority: As outlined above, the nature of food in tribal communities is a complicated one. Many tribal communities have established an intimate relationship with foods that have sustained the community over countless generations. This relationship is reflected in ceremony, behaviors and social organization. These relationships are personal and rarely seen within the realm of policy or legislation, since such policies could be viewed as an intrusion into a cultural environment that is better handled with cultural leaders.

Moreover, food issues may not be a priority of policymakers in Native nations, especially given the myriad issues confronting Native nations on a daily basis. Thus, how food policies are framed is important. Food is a human need that intersects with other Native assets including land, economy, culture and natural resources.

Tribal citizens may not see the need for food policies. American food products have made their way into tribal communities whether through federal policy or economic influence, and have rapidly changed the food, cultural, economic and even political landscape within those communities. Tribal food policies must navigate and negotiate the various types of foods and types of policy interventions. Governments and groups may have to invest in educating citizens on food-related issues and the need for policy.

Groups Organizing to Push for Change: Raising food-related issues and examining policy as one mechanism to exert greater local food system control remains a high priority for many farmers, ranchers, health practitioners and grassroots organizations. But in many Native communities, these various groups with shared interests have not formed a cohesive block to effectively push for policy change. Groups will have to continue to coalesce around food and identify shared areas of interest to effectively push for policy change.

Lack of Indian-Specific Data on Food and its Connection to Economy and Health: Those who work in Indian Country are familiar with the consistent lack of data on American Indians and Native communities. This is no different when it comes to data on food.

Many Native communities have started to collect their own data or fight to gain access to other data and make those data publically available. For more traditional government systems, making the case for food policies may be a much more personal journey that may require demonstration of specific events that occur within the community. For example, perhaps a ceremony or an event that once featured mainstay, traditional foods now has an influx of more processed foods. This gradual change over time can be articulated to demonstrate a need for a food policy.



Jurisdictional Considerations: Federal law preempts many state food policies and both federal and state law may preempt many local food policies. Because the jurisdictional landscape in Indian country is complex, federal law could possibly preempt tribal food policies. Most recently, the Food Safety Modernization Act of 2011 (FSMA) has incredible implications for tribal food enterprises. As of the drafting of this paper, questions surrounding FSMA and its impact on tribes remain unanswered. Thus, the jurisdictional waters of many food codes and policies remain vague and unspecific.

Deciding if a tribal food policy may be preempted by federal law is no easy task, as a food policy may contain provisions or recommendations for several different areas of law such as land use, water use and agricultural policy, all of which could possibly be legislated by federal law and regulated by federal agencies. Other tribal food policies could be treaty-specific and raise other questions about long-standing treaty rights. Also, deciding what issue areas to tackle in a policy requires a great deal of contemplation, as tribal food policies alone may not be adequate to address food or agricultural problems without stakeholders outside the tribal jurisdiction.

Thus, Native nations must understand the jurisdictional landscape when enacting a food policy. For tribes looking to establish community kitchens and other outlets that require regulation by the USDA and, increasingly, FDA, food issues can be subject to other state conflicts, impacting local food efforts.

Cost of a Food Policy: Policy can be costly. It can include monetary and non-monetary costs associated with policy development, implementation, enforcement and evaluation. Thus, Native communities must think about where resource will come from to cover costs associated with food policy.

For example, implementation and enforcement of some food policies may require institutional or bureaucratic change, which may affect staffing. All these changes have a price tag. Thus, it is important to map out the various costs associated with policy development, implementation, enforcement and evaluation. Moreover, there may be a need to map out where resources will come from to cover the cost of policy development, implementation, enforcement and evaluation. Native nations are already working with limited resources, so this kind of cost-mapping can help understand the feasibility and sustainability of a potential policy.

Implementation and Enforcement: Many food policies can be stalled in the implementation and enforcement phase. This can be partially due to costs associated with implementation and enforcement. In many cases new policies come with additional implementation and enforcement duties for already overextended tribal agencies and workers. Thus, new policies may not come with sufficient resources to grow infrastructure needs needed to fully execute a new policy. This will also affect the sustainability of a potential food policy. Mapping out these costs and other inputs needed to make a policy successful will help avoid delays in the policymaking process.

Content of a Policy: Ultimately a food policy should be a guidepost related to a particular issue. However, the content of a policy not only shapes immediate needs but also long-term goals and outcomes. The content of a food policy can be narrow and specific or loose and broad. Policies can shape current and future disagreements and may have unintended consequences for both tribal leaders and citizens. All policy developments must walk a tight line of developing policy that is defined enough to have merit, but flexible enough to be adjusted in the face of change.

Outside Interests: In many instances, tribal communities are very susceptible to external influence. For example, during the DCAA legislative efforts, external beverage associations and other individuals from the sweetened beverage industry actively lobbied the Navajo Nation to stop the passage of the Healthy Diné Nation Act of 2014. In this example and perhaps others, outside interests made promises to legislative authorities in exchange for votes. This is common for any government, including the U.S. government, but these issues can get magnified in Native communities and disrupt the normal policy process.

As Indian Country continues to lead food policy efforts, these instances of external control and influence will undoubtedly continue. As Native nations look to pass policies that challenge the status quo, external actors will continue to insert themselves in Native policy, hoping to challenge Native innovations. Thus, tribal communities will need to be vigilant in preventing these external political actors from influencing local tribal policy. Thus, when Native nations look to enact policy, they must consider what kinds of external interest groups will be threatened and also contemplate who these groups may attempt to influence in the process



CONCLUSION

Tribal food policy creation and implementation requires consideration of a wide range of socio-cultural, political and economic considerations that are sometimes beyond the scope of mainstream state, local or federal governments. Tribal food policy is undoubtedly tribal-specific, and moving tribal food policies forward requires an intimate understanding of the community the policy seeks to guide. The policies discussed above are powerful tools that enable tribes to control, manage and regulate their food systems. They serve as existing models. But, like the 566 federally recognized tribes and their diverse government systems, tribal food policies are likely to be just as diverse.

Tribal food policies are an important tool for tribal communities to communicate their express desires to start controlling the economic resources of their community to outside agencies such as local, state and federal actors, to preempt local, state and federal intrusion into the tribal food space. It is important to keep in mind that the actual tribal food policies are just as important as the processes of developing and implementing them, all of which may strengthen or diminish the effectiveness of the policies. As outsider agencies and corporations continue to dictate local food economies, projects and outlets, tribal food policies will continue to be an important space for development and exploration.

**Native Agriculture
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**FIRST NATIONS
DEVELOPMENT INSTITUTE**

2432 Main Street, 2nd Floor • Longmont, Colorado 80501
Tel 303.774.7836 • Fax 303.774.7841 • www.firstnations.org