



Improving health through the power of law



Creating Tribal Laws and Policies to Promote Healthy Eating

National Indian Health Board Tribal Public Health Summit, April 8, 2015



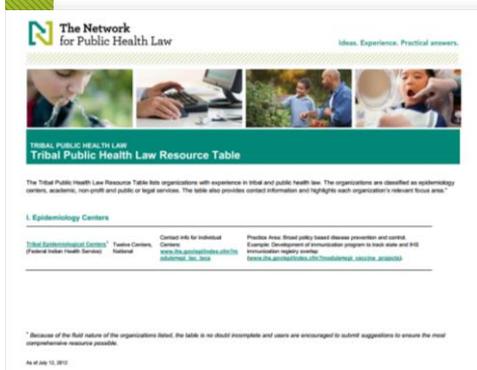
American Indian Cancer Foundation.

www.PublicHealthLawCenter.org

The screenshot shows the Public Health Law Center website interface. On the left is a navigation menu with links for 'About Us', 'Our Staff', 'Programs', 'Public Health Topics', 'Public Health Law at Minnesota State', and 'Contact Us'. Below the menu is a search bar and an email subscription form. The main content area features a 'Welcome' message and a featured article titled 'Building Blocks for Success: A Guide For Developing Healthy Beverage Programs'. The article includes a 'Quick Reference Guide' with six steps: 1. Convene a healthy beverage workgroup, 2. Assess beverage availability and staff perspectives, 3. Develop a healthy beverage policy and program, 4. Engage senior management and key stakeholders, 5. Educate staff, visitors, and stakeholders, 6. Implement the policy. The article also mentions that the project will be led by Dan Siler, formerly with the Centers for Disease Control and Prevention's Public Health Program.

The Network for Public Health Law

- Practical legal assistance on a variety of public health topics
- Resources from webinars and trainings to fact sheets and legal briefs
- Connect with a community of experts and users of public health law



Support is available at no cost!
Visit www.networkforphl.org
for more information.

https://www.networkforphl.org/_asset/hd1j6p/Tribal-Public-Health-TableFINAL.pdf

The Tobacco Control Legal Consortium



who we serve:

- government leaders, including Tribes, federal, state, and local government officials
- public health officials
- government attorneys
- public health advocacy organizations
- community coalitions
- researchers



what we do:



- education (presentations; webinars; fact sheets, etc.)
- legal research
- policy development
- sounding board
- litigation support



The Public Health Law Center

 We do:	 We don't:
<ul style="list-style-type: none">• legal research• policy development• publications• trainings• litigation support	<ul style="list-style-type: none">• direct representation• lobby



American Indian Cancer Foundation

We imagine a world without cancer...



AICAF Story

The American Indian Cancer Foundation (AICAF) was founded in 2009 and became operational in 2011.

A registered 501(c)(3) non-profit organization, AICAF was established to address tremendous cancer inequities faced by American Indian and Alaska Native communities.

AICAF's board members and employees are American Indian, with an array of expertise and experience serving the health needs of our people.



Our Vision

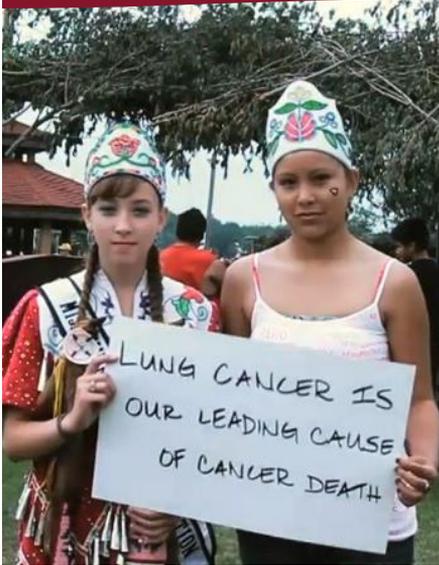


Our vision is a world where cancer is no longer a leading cause of death for American Indian and Alaska Natives.

Through hard work, culturally appropriate community-based programs, and policy change that affords Native people access to the best prevention and treatment strategies, we see a day where American Indian communities are free from the burdens of cancer.



Why Cancer Rates Are Higher Among American Indians...



- Tobacco abuse (smoking and chewing)
- Cigarette smoke exposure
- Alcohol abuse
- Diets high in animal fats and lower in fiber, lack of fresh fruit and vegetables
- Lack of regular physical activity
- Obesity & Diabetes
- Family genes that may increase risk



Our Approach



We believe...

Native communities have the wisdom to find the solutions to cancer inequities, but are often seeking the organizational capacity, expert input and resources to do so.



Current Projects



- **Healthy Native Foods**
- **Community Conversations on Tribal Health Equity**
- Clinical Systems Improvement for Tobacco and Cancer Screening
- Community Health Worker & Colorectal Cancer Screening Navigator
- Evaluation Support for Tribal Cancer Projects
- Inter-Tribal Comprehensive Cancer Councils
- Pink Shawls Breast Cancer Education
- Native Cancer Survivor Support
- Powwow for Hope



Introductions



- Tribes are not the same, nor are Tribal legal systems
- How to promote healthy eating is a challenge for everyone—there is no “right” answer
- Questions and comments are welcome at all times



Community Engagement: A Vital Component for Developing Effective Policies



Tribal Health Equity



What we know..

- American Indians face tremendous inequities in cancer and other chronic illnesses largely related to health behaviors and social determinants of health.
- American Indians in Minnesota are on the worst end of every health indicator reported (e.g. access to health care, environmental quality, substance abuse) and Minnesota has the largest disparities of any other State.
- The work ahead of us is about reclaiming a strong and healthy future for generations to come.

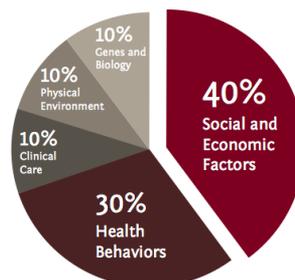


Changing the Story: Health Equity

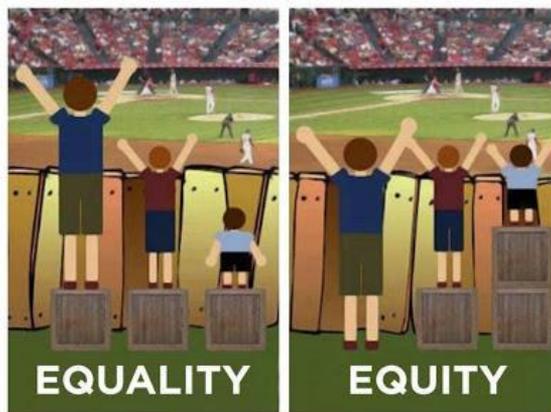
Health- The World Health Organization defines health as- “a state of complete physical, social and mental well-being, and not merely the absence of disease or infirmity.”

Health Equity- to achieve the conditions in which all people have the opportunity to realize their health potential- the highest level of health possible for that person without limits imposed by structural inequalities.

What impacts our health?



Other ways to explain what we mean when we say Equity



Health Inequity is a health disparity based on inequitable, socially determined circumstances. Because health inequalities are socially determined, change is possible.

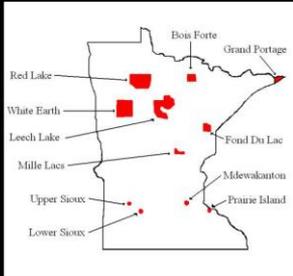


Engaging Community

- Five Regional Tribal Health Conversations
- Conversations were framed around the following questions to address health equity in tribal communities:
 - How does positive change happen?
 - What is at the core of good health and wellness?
 - What is working and what are the different ways to get there?



Participating Tribe or Group	Region in MN	#of Participants
Upper and Lower Sioux Communities	Southwest	19
Shakopee Mdewakanton Sioux and Prairie Island Communities	Southeast	5
Bois Forte, Fond du Lac, Mille Lacs	Northeast	15
Red Lake, Leech Lake, White Earth	Northwest	23
Native Youth Alliance of Minnesota	Metro	44
TOTAL		106



Who was there..

What we heard..

PREVALENT THEMES ACROSS TRIBAL HEALTH EQUITY CONVERSATIONS

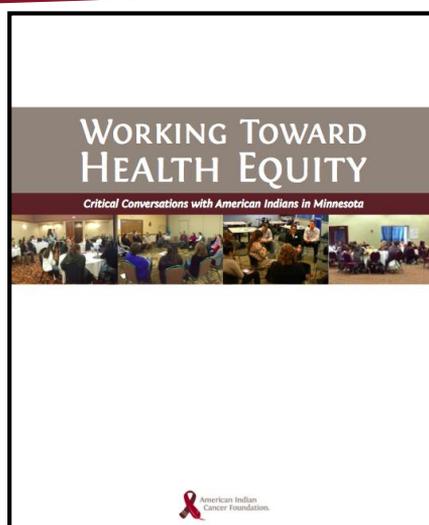
<i>Emerged Across All Conversations</i>	<ul style="list-style-type: none"> • Cultural connectedness and practicing tradition for community well being • Education to promote traditional tobacco and prevent commercial tobacco use • Education to promote traditional, healthy Native foods and healthy lifestyles
<i>Emerged in Three Conversations</i>	<ul style="list-style-type: none"> • Tribal Council engagement and support of policy to promote health
<i>Emerged in Two Conversations</i>	<ul style="list-style-type: none"> • Intertribal partnering and collaboration across departments (breaking silos) • Opportunities for sustained intergenerational relationships • Grow opportunities to support and promote positive role models
<i>Emerged from Conversation with Tribes in NE MN</i>	<ul style="list-style-type: none"> • Strengthening mental health through community healing • Strategic assessment and evaluation of community health programs
<i>Emerged from Conversation with Tribes in NW MN</i>	<ul style="list-style-type: none"> • Community empowerment to achieve positive change • Individual healing to promote behavior change, moving beyond addictions

Recommendations

- Community coalition building to develop community-based priorities, solutions, strategies and policies.
- Provide opportunities to strengthen community and individual traditional healing practices.
- Utilize tribal sovereignty to enact policy that will have powerful positive impact on community health.
- Seek opportunities to collaborate to advance health equity.



Dissemination



Community Coalition Work

Goal: To advance tribal health equity in Indian Country through collaboration, partnership and authentic engagement with tribal communities.

- **Objective 1:** To increase opportunities for culturally relevant education around traditional tobacco, commercial tobacco prevention, healthy native foods and healthy lifestyles to improve community health.
- **Objective 2:** Provide knowledge, education, and technical assistance to tribes, as it is relevant to decision-making or to meet the needs interests of the community members.
- **Objective 3:** Increase capacity for improvement of tribal practices and policies based on community expertise, evidence-based strategies and credible data.



Normalizing Healthy Eating in American Indian Communities

Healthy Foods in AI Communities

- Loss of our foods due to colonization
 - Food insecurity
- Reintroduction of traditional foods
 - Inherent nutritional value
- Communities making strides through food sovereignty work



American Indian Cancer Foundation (AICAF) Role

Healthy eating =
cancer prevention



AICAF Approach

- Learn information outside a typical meeting setting
- Actively engage community members & partners around healthy food in our communities
- Take the opportunity to share what exists in our communities right now around healthy native food systems



Community Engagement: Healthy Native Food Tours



Community Member Feedback

- Community awareness
- Cost
- Education
- Traditional teachings and processes
- Food swamps versus food deserts



Community Strategies to Support Healthy Eating

- Youth Involvement
- Traditional Foods
- Accessibility, Affordability, & Availability
- Community Education & Awareness



Engage Community Partners

- Community champions
- Provide expertise to develop:
 - Recommendations
 - Resources



Community Partner: Recommendations

1. Normalize healthy eating
2. Create linkages across diverse systems & domains
3. Collaborative decision making & efforts



AICAF's Role

- Advocate the work of our partners with the goal to raise awareness on:
 - Healthy eating
 - Programs and services available
 - Support steps to map existing resources available throughout our community
- Facilitate efforts to support healthy food discussions and activities



Healthy Native Foods Champions



Healthy Native Foods Champion

Lori Watso & Shakopee Mdewakanton Sioux Community



SMSC is developing a multi-faceted food system intended to provide tribal citizens with multiple pathways to healthier eating. Inspired by Lori Watso, a former public health nurse who serves as Secretary/Treasurer on the SMSC Business Council, the tribe operates an organic farm and state-of-the-art natural food store that is open to everyone.

Learn more about what Native people are doing with healthy foods at www.AmericanIndianCancer.org/HealthyNativeFoods



Healthy Native Foods Champion

Stacy Hammer, Registered Dietitian



"PRACTICE DOESN'T HAVE TO BE PERFECT."

Much of my work as a Registered Dietitian is about empowering people. What are small steps towards eating better, more balanced meals? Start small. Make a plan and a grocery list. Stick to it. Mix things up. Try something new. Change takes time and realistic steps. When people try to change everything at once, they set up themselves for failure. You can make it happen!

Learn more about what Native people are doing with healthy foods at www.AmericanIndianCancer.org/HealthyNativeFoods



Community Organizations Engagement

Healthy Native Foods Toolkit

- Designed for organizations who work with the American Indian community
- Held trainings in Minneapolis & Bemidji
 - 25 organizations attended



- Toolkit offers strategies for healthier eating practices for:
 - Community events
 - Workplace
 - Youth

TOOLKIT | COMMUNITY GATHERINGS

Healthy NATIVE FOODS

for American Indian Communities

The HEALTHY FOODS TOOLKIT for American Indian communities has been developed to serve as a reference tool to aid in healthy meal planning. The toolkit has been designed to provide tips, guidelines and meal planning strategies for staff meetings and Community gatherings for both adults and children. A large part of our culture involves the love of gathering with our friends and relatives around a meal. The destruction of once healthy Native food pathways has led the health of our people to many negative health implications such as, diabetes, heart disease and cancer. The toolkit may serve as not only a guide to provide healthier menu options, but also as a way to reintroduce these healthier foods back into the daily diets of our American Indian relatives and friends.

The overall goal in designing this guide is to support cancer prevention within our communities. Our hope is the Healthy Foods toolkit for American Indian communities will become a valuable resource for you and your organization in contributing to making community and workplace gatherings more healthful.

Stepy Hammer, RD, LD, Special Diabetes Program for Indians (SDPI) Coordinator
Enrolled tribal member of the Lower Sioux Indian Community, Morton, MN



The Workplace

- Endorsing a healthy foods policy in the workplace will help facilitate a healthier work environment and result in:
 - Higher work productivity
 - Less Sick days
 - Reduced healthcare costs for your organization
 - Supportive environment to adopt a healthier lifestyle for staff and their families



Community Readiness to Policy Change

- Comprehensive approach
- Acknowledge multiple strategies to support change
- Celebrate small achievements
- Ensure sustainability



AICAF Wellness Policy



- Developed by AICAF & approved by Board in 2012
- Supports healthy food options to be available at:
 - Work
 - AICAF-sponsored events/meetings



Policy: Healthy Food Options

- Choose indigenous and local (when available) as a first choice when purchasing or serving food.
 - Food producers, suppliers, vendors, and products.
- Follow the recommended portion sizes, according to current authoritative nutritional guidelines.



Policy: Healthy Food Options

- Choose healthier choices over less-healthy choices:
 - Work with food vendors who can provide nutritional options such as:
 - Fruits and vegetables
 - Whole grain products
 - Low-fat dairy products
 - Lean meats and fish
 - Foods low in salt, sugar, and saturated fats.



Policy: Healthy Food Options

- Avoid sugar-sweetened beverages
 - Sodas
 - Sports drinks
 - Waters that contain calories
 - Juices that are not 100% juice



Lessons Learned

- Annual educational session highlighting policy components to support staff
- Everyone has a different definition for “healthy”
- Encourage the need to lead by example
- Flexibility for treats in moderation



Contact Us!

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www.AmericanIndianCancer.org





Drafting Effective Healthy Eating Laws and Policies

Julie Ralston Aoki
Public Health Law Center

Tribal policy, systems, environmental approaches
to promote healthier diets

- Reinforce Native food systems/customs
- Include healthy food access in comprehensive plan
- Establish a food policy council
- Offer free/low cost drinking water at Pow Wows
- Require healthy vending on Tribal government property
- Include Native food preference, nutrition standards in Tribal government food procurement process
- Tax junk food, make fresh produce tax-free
- Tribal government support for mobile grocery stores

Drafting Effective Public Health Laws and Policies

Objectives

- Learn basics of policy drafting
- Recognize and respond to challenges in policy drafting
- Practice drafting and revising portions of a healthy eating law or policy

Take-Aways

- Skills to draft and review policies
- Policy Development Tools
- AICAF Healthy Native Foods Toolkit



What is an Effective Law or Policy?

- **Easy to understand and follow**
- **Easy to enforce**
- **Accomplishes goals**



The Policy Journey



- Gather information and data
- Engage stakeholders
- Review sample policies
- Understand existing context
- Involve legal assistance
- Identify deal breakers
- Anticipate challenges

Typical Elements of a Law or Policy

- Findings
- Purpose
- Definitions
- Restrictions/Requirements
- Exemptions (?)
- Implementation
- Enforcement
- Severability



Elements of a Law or Policy: Findings

WHEREAS, in the Muscogee (Creek) Nation's WIC Program's review of recent research on obesity in youth, it shows that: 1) more than 30 percent of Native American 4-year olds are obese; 2) more than 39 percent of low-income Native American children ages 2-5 are overweight or obese; 3) over a 10-year period, the number of diabetes cases increased by 68 percent among Native American teens ages 15-19; 4) childhood obesity is associated with an increased risk of type 2 diabetes, high blood pressure, cardiovascular disease, asthma, sleep apnea and social discrimination; 5) obese Native American children are twice as likely to die before the age of 55; and 6) there is a direct correlation between the lack of affordable, healthy food and the lack of exercise contributing to obesity; and

Elements of a Law or Policy: Purpose

“ The **purpose** of this legislation is to *make school property available to community members outside of the school day for recreational activities to support active living, reduce obesity, reduce health care costs associated with obesity, increase community safety, maximize community resources, and promote community support for public schools.*”



Elements: Definitions

- O. "Sugar-sweetened beverage" means any beverage intended for human consumption to which one or more Added caloric sweeteners has been added and that contains at least 2 calories per fluid ounce.
1. "Sugar-sweetened beverage" includes, but is not limited to all drinks and beverages commonly referred to as "soda," "pop," "cola," "soft drinks," "sports drinks," "energy drinks," "sweetened ice teas," or any other common names that are derivations thereof.
 2. "Sugar-sweetened beverage" shall not include any of the following:
 - a. Any beverage in which milk is the primary ingredient, i.e., the ingredient constituting a greater volume of the product than any other;
 - b. Any beverage for medical use;
 - c. Any liquid sold for use for weight reduction as a meal replacement;
 - d. Any product commonly referred to as "infant formula" or "baby formula"; or
 - e. Any alcoholic beverage.
- P. "Sugar-sweetened beverage product" means a Sugar-sweetened beverage or Added caloric sweetener.

Essential Elements: Requirements/Restrictions

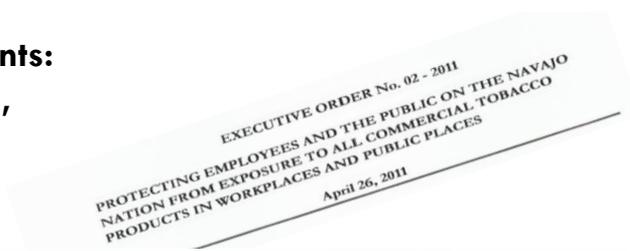
TR 10-79

**CLASSIFICATION: #15. CULTURAL AFFAIRS/HISTORY/MUSEUM
A TRIBAL RESOLUTION OF THE MUSCOGEE (CREEK) NATION ESTABLISHING
A TRIBAL FOOD AND FITNESS POLICY COUNCIL**

Be is Resolved by the National Council of the Muscogee (Creek) Nation:

LET IT FURTHER BE RESOLVED THAT, The Muscogee (Creek) Nation hereby supports the establishment of the Muscogee (Creek) Nation Food and Fitness Policy Council comprised of representatives from the Indian Health Service, Muscogee (Creek) Nation Division of Health, Legislative, Executive and Judicial branches of government, ~~Mvskoke~~ Food Sovereignty Initiative and farmers/ranchers and other stakeholders, as decided by the Food and Fitness Policy Council that will provide input and legislative recommendations to the government of the Muscogee (Creek) Nation.

Essential Elements: Implementation, Enforcement



Section 4. Responsibility for Implementation. The employers are responsible for implementing and ensuring compliance with the provisions of this Order.

- i. Warning signs approved by the Office of Environmental Health Code Enforcement shall be conspicuously posted in every building and entrance or other area where the use of commercial tobacco is prohibited by this Order. Every owner, operator, manager, lessee, or other person having control of such building or other area shall publicly post warning signs including decals or internationally graphic displays. The signs shall clearly state or display that commercial tobacco use in any form is prohibited, and must designate the established phone number, email address, or postal mailing address to report violations.

Section 5. Phase-In of Implementation. Implementation of the policy set forth in this order shall be achieved no later than 90 days after the date of this order. This 90 day phase-in period is designed to establish a fixed but reasonable time for implementing this policy. Employers are directed during this period to inform all employees and visitors to their facilities about the requirements of this order, inform their employees of the health risks of commercial tobacco, and undertake related activities as necessary.

Section 6. Consistency with the Other Laws. The provision of this order shall be implemented consistent with applicable law. Nothing herein shall be construed to replace any employer policy currently in effect, if such policy is legally established, in writing, and consistent with the terms of

2

Questions so far?

Essential Elements of a Law or Policy

- Findings
- Purpose
- Definitions
- Restrictions /
Requirements
- Exemptions
- Implementation
- Enforcement
- Severability





Key principles of policy drafting

- Be clear and specific
- Be concise
- Be consistent
- Be practical (common-sensical?)
- Be collaborative
- Tailor language
- Anticipate challenges

Be Clear & Specific

- Use definitions appropriately
- Include all policy elements
- Avoid assumptions



Be clear & specific

Healthy Beverage Catering Policy

Sugar-sweetened beverages will not be served. Beverages made available will consist of 100% fruit and vegetable juices (breakfast only), milk (non-fat or low-fat), coffee, unsweetened tea, and water. Pop will be kept in the Department's kitchen refrigerator and is available to guests by request, however, this policy precludes setting out canned or bottled soda on a food line.

Be concise

- Make every word count-- choose words with care, eliminate unnecessary words
- Keep language simple

“There is a useless lawsuit in every useless word of a statute.” (Elihu Root, 1914)

Be concise

(E) Owners, managers, operators, or employees of establishments regulated by this Ordinance shall inform persons seen violating this Ordinance of the requirements of this Ordinance. In the event an owner, manager, operator or employee of an establishment regulated by this Ordinance observes a person or persons violating this Ordinance, he or she shall immediately direct the person or persons in violation to extinguish the item being smoked. Failure of the person directed to extinguish his/her item shall result in the violator being directed to leave the premise.

1. In the event the person [or persons] violating this Ordinance complies with this directive, no violation shall exist for the owner, manager, operator or employee witnessing the violation. In the event an owner, manager, operator or employee of an establishment regulated by this Ordinance observes a person or persons violating this Ordinance and fails to immediately direct the person [or persons] in violation to extinguish the item being smoked, the owner, manager, operator or employee failing to take appropriate steps required by this Ordinance shall be in violation of this Ordinance.

2. In the event the person [or persons] violating this Ordinance fails or refuses to comply with this directive, the owner, manager, operator or employee directing the person [or persons] violating this Ordinance shall take immediate and reasonable steps to obtain the removal of the person [or persons] from the premises. As an example of the reasonableness required, if there is a person violating the ordinance who, the owner, manager, operator or employee of an establishment regulated by this Ordinance is required to remove from the premises, but the person is intoxicated or otherwise reasonably believed to be unable to safely drive or conduct himself or herself if required to leave those premises, in this event the owner, manager, operator or employee reasonably determine to allow the person violating this ordinance to remain on the premises until appropriate arrangements may be made for the person's removal.

In the event the person [or persons] violating this Ordinance is timely removed from the premises; no violation shall exist for any owner, manager, operator or employee related to the establishment in which these events occurred. In no event is an owner or agent of the premises to forcibly remove the person violating the Ordinance. Compliance is achieved under this subsection if the owner or agent of the premises orders the person violating the Ordinance to leave its premises and promptly notifies the police if the person refuses.

(E) Owners, managers, operators, or employees of establishments regulated by this Ordinance shall inform persons seen violating this Ordinance of the requirements of this Ordinance. In the event an owner, manager, operator or employee of an establishment regulated by this Ordinance observes a person or persons violating this Ordinance, he or she shall immediately direct the person or persons in violation to extinguish the item being smoked. Failure of the person directed to extinguish his/her item shall result in the violator being directed to leave the premise.

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In the event the person [or persons] violating this Ordinance is timely removed from the premises; no violation shall exist for

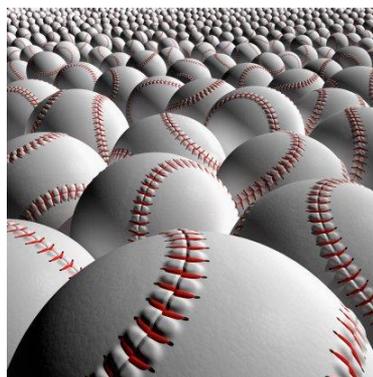
If an owner, manager, operator, or employee of an establishment regulated by this Ordinance observes a person[s] violating this Ordinance, he or she shall immediately ask the person[s] in violation to stop smoking. If the person[s] violating the Ordinance does not stop smoking, the owner, manager, operator, or employee shall immediately ask the person[s] to leave the premises. If the person[s] in violation refuses to leave the premises, the owner, manager, operator, or employee shall call the police or other appropriate enforcement agency.

In no event is an owner or agent of the premises to forcibly remove the person[s] violating the Ordinance. Compliance is achieved under this subsection if the owner or agent of the premises follows these steps.

An employee who observes a person[s] violating this Ordinance may immediately notify the owner, manager or supervisor of the violation in satisfaction of the employee's responsibility under this Ordinance. The failure of the owner, manager, or supervisor to take the steps required by this subsection in response to the employee's notice shall not constitute a violation on the part of the employee.

Be consistent

- Use language that is consistent with policy objectives
- Check for internal and external policy language consistency
- Avoid unnecessary exemptions



Avoid exemptions



Exemptions

- Weaken the justifications and objectives of the law or policy.
- Make the policy or law more difficult to interpret, implement, and enforce.
- Exemptions in laws often lead to litigation.

Be practical

- Understand the social, political, and real-world context
- Consider ability to achieve purpose (cost, effective dates, ability to implement or enforce)

Be practical

Which should we do—
50% healthy food vs. 100%
healthy?

Be practical

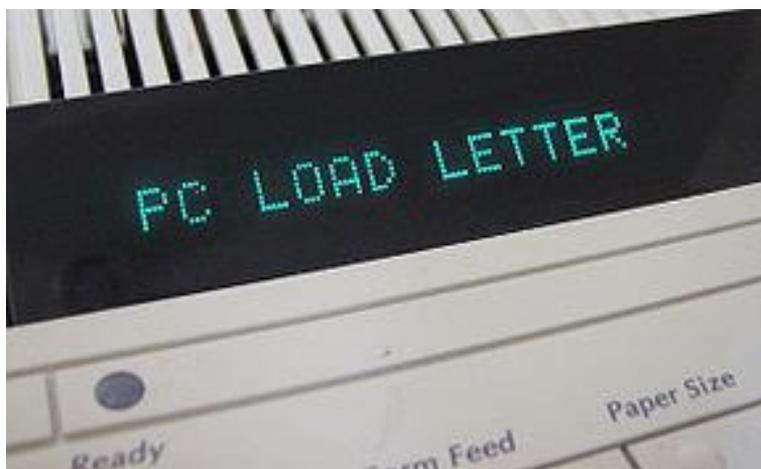
- 50% healthy food vs. 100% healthy?
- Possible considerations:
 - How strict are your nutritional standards?
 - What's in the machine(s) right now?
 - What products are available in the region?
 - Are there any contracts that have to be honored?
 - How will the policy be monitored or enforced?
 - Will anything be done to educate customers?
 - What's more important—continue to offer unhealthy but popular choices, or drive healthy choices?
 - Drinks vs. snack foods

Be collaborative--draft and exchange ideas with others

- You are not alone (stakeholders, legal assistance, other Tribes)
- Your policy is not an island (existing laws and policies; state and international trends)



Don't Draft by "Xerox"



Tailor language for your Tribe

- Review other policies and tailor for your situation — don't blindly adopt someone else's compromises

Anticipate challenges

- Practical barriers
- Political opposition
- Potential lawsuits that could be brought to challenge the law

Policy Drafting Homework



The Homework



- ❑ Gather information and data
- ❑ Engage stakeholders
- ❑ Review sample policies
- ❑ Understand existing context
- ❑ Involve legal assistance
- ❑ Identify deal breakers
- ❑ Anticipate challenges

Critiquing exercise

- What is missing from the policy?
- Is there any language that is unclear, confusing, or contradictory?
- What are the exemptions?
- Are they necessary? Too broad? Too narrow?
- Will the person or people who have to implement this policy know what they need to do?
- How will the policy be enforced?
- Are there unnecessary words?

Rewriting exercise

- Try rewriting a portion of the sample law.
 - ▣ Clear and specific
 - ▣ Concise
 - ▣ Consistent
 - ▣ Tailored
- Or, jot down ideas for additional information you think would be helpful to have before trying to revise the law

Developing your own policy idea

- ▣ Where could you look for examples of similar policies?
- ▣ What stakeholders would you like to consult about what the policy should be?
- ▣ What information do you need to draft a good policy that you don't yet have?
- ▣ What are some things you could do to help make sure the policy will be tailored for your Tribe?

Wrap-up

- ▣ What concepts did you find most compelling today?
- ▣ What's still unclear for you that you would like to learn more about?
- ▣ Based on your experience, and what you've heard today, what are some of your next steps?

www.americanindiancancer.org
www.publichealthlawcenter.org

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Cancer Foundation.