

PREEMPTION OF PUBLIC HEALTH AUTHORITY

Communication Toolkit for Organizers

This toolkit is intended to serve as your one-stop-shop for communicating about preemption of public health authority. If you have additional questions about messaging or any technical assistance, please reach out to the Local Solutions Support Center.

WHAT IS PUBLIC HEALTH AUTHORITY PREEMPTION?

A number of state legislatures are working to undermine the authority and independence of public health agencies and local governments through preemption legislation. Public health authority preemption is occurring with increasing frequency despite the COVID-19 pandemic.

Preemption of public health authority has lasting consequences. In the short-term, this type of preemption leaves local elected, appointed, and public health officials unable to take steps that protect the health and well-being of their communities. This use of preemption also worsens existing community health inequities - disparities further amplified by a pandemic that's disproportionately harmed BIPOC communities. Over the long-term, this undermining of public health authority will make it more difficult for communities to respond to disease outbreaks and other health emergencies.

This isn't happening in a vacuum – preemption of public health authority is part of a [broader and growing trend](#) to use preemption as a means of maintaining inequitable and often racist systems at the expense of BIPOC, women, immigrants, LGBTQ people, and workers in low-wage industries.

WHAT ARE THE HALLMARKS OF A PUBLIC HEALTH AUTHORITY PREEMPTION BILL?

- Limiting the ability of public health agencies or local governments to operate without approval from a third party. Third parties may include the state legislature, the state governor, or the city council, among others. For example, see [MO SB 1203](#).
- Specific restrictions on what actions public health agencies or local governments, including school boards, can take in response to public health emergencies (for example, limits on masking, vaccine, or social distancing requirements). For example, see [GA SB 514](#).
- Requiring public health agencies or local governments to adopt specific opinions regarding public health, such as determining that “natural immunity” provides as much protection from a virus as vaccines. For example, see [TN HB 1871](#).

Public Health Authority Preemption By the Numbers



In 2021, at least **26 states** pushed through laws that permanently weakened the authority of public health departments, often by shifting the power to issue critical public health and safety orders from local health experts to state politicians.



At least **17 states** passed laws that banned COVID-19 vaccine mandates or made it easier to get around vaccine requirements, and at least nine states passed new laws that ban or limit mask mandates.

HOW CAN YOU TALK ABOUT PUBLIC HEALTH AUTHORITY PREEMPTION?

Here is some messaging guidance for talking about preemption of public health authority with others - particularly officials or potential allies who aren't as steeped in this work.

1 *Start by explaining that the health and wellbeing of one's community is best understood by those that live, work, and play there.*

Those local voices should be the primary ones in the decision making process.

2 *Discuss the role and responsibilities of local governments and public health departments, and why they should be equipped to make informed decisions for their community:*

Local governments and public health departments have a deep understanding of the communities and populations they're serving, and as such, know how to craft and implement public health policies that meet the unique needs of their residents.

When local public health agencies are on the ground in communities, they can be responsive to local health issues that arise and can also move fast in adopting pilot programs - which can wind up influencing state and federal health policies.

3 *Explain the role of public health practitioners in a way that is easily understood and conveys urgency.*

Right now, we can still use the pandemic as an example - though if you have more timely and specific examples in your own community, feel free to cite them here:

These experts have been on the frontlines of the pandemic, working around the clock to protect the public health and well-being of their constituents and neighbors. Their actions – such as issuing local masking and capacity guidance – have helped slow the spread of COVID, protect the public's health, and save lives.



HOW CAN YOU TALK ABOUT PUBLIC HEALTH AUTHORITY PREEMPTION? (CONTINUED)

4 *Explain the obstacle – how an increasing use of preemption is undermining both public health authority and public health policy or decision making.*

We have some statistics in the preceding section which may be helpful to include in your conversations; and our legislative tracking team can help identify any specific bills in your state worth mentioning:

Unfortunately, a number of state's governments have worked to undermine the authority and autonomy of health departments and local governments - even as the pandemic raged. The consequences are clear:

- These preemption efforts worsen existing public health disparities – gaps amplified further by a pandemic that has disproportionately harmed BIPOC communities.
- These laws also directly harm individuals and communities by further politicizing public health and sowing distrust of local health officials – who [have already faced threats, intimidation, and harassment](#) simply for trying to do their jobs.
- Preemption of public health authority - particularly during the pandemic - disproportionately harms communities that also are most impacted by the abuse of preemption across social determinants of health issues - like paid sick leave, minimum wage, and access to equitable housing.

5 *Highlight the long-term consequences of public health authority preemption:*

The consequences of curbing public health powers will last long beyond this pandemic. It will diminish public health leaders' ability to do their jobs and make it more difficult for practitioners and communities to respond to endemics and other health emergencies in the future.

Preemption of local public health decision making now will change the contours of public health authority across the country for years to come.

6 *Close with a strong call to action.*

Some general messaging guidance is below, but you should feel free to tailor this as much as possible to reflect your own state landscape:

Public health practitioners and local governments work together to keep us safe and healthy. These local practitioners know their communities best – the populations, the risks, and the unique needs; and how all of those local factors intersect with matters of public health.

There's no one better suited to make decisions that are meant to keep local populations safe and healthy than those that listen and know their community. We must strengthen, not limit, their decision making powers during public health emergencies in order to protect the well-being of the communities they serve.

Public Health Authority Preemption Resources

Here are some additional resources that may be helpful to your advocacy efforts:

[2022 Update to Research on Preemption, Health, and Equity](#); ChangeLab Solutions and Local Solutions Support Center | April 2022

[Preemption and the Public's Health](#); Public Health Law Center

