

People. Policy. Progress.

Good Governance to Advance Health Equity:

Preemption & Equitable Implementation





DISCLAIMER

The information provided in this discussion is for informational purposes only, and does not constitute legal advice. ChangeLab Solutions does not enter into attorney-client relationships.

ChangeLab Solutions is a non-partisan, nonprofit organization that educates and informs the public through objective, non-partisan analysis, study, and/or research. The primary purpose of this discussion is to address legal and/or policy options to improve public health. There is no intent to reflect a view on specific legislation.

©2023 ChangeLab Solutions

Our mission

Healthier communities for all through equitable laws & policies.





A Blueprint for Changemakers changelabsolutions.org/blueprint





Overview of the Blueprint





A Blueprint for Changemakers

Our core strategies leverage our expertise to help communities dismantle the **five fundamental drivers of inequity**:



Structural discrimination



Disparities in political power



Income inequality and poverty



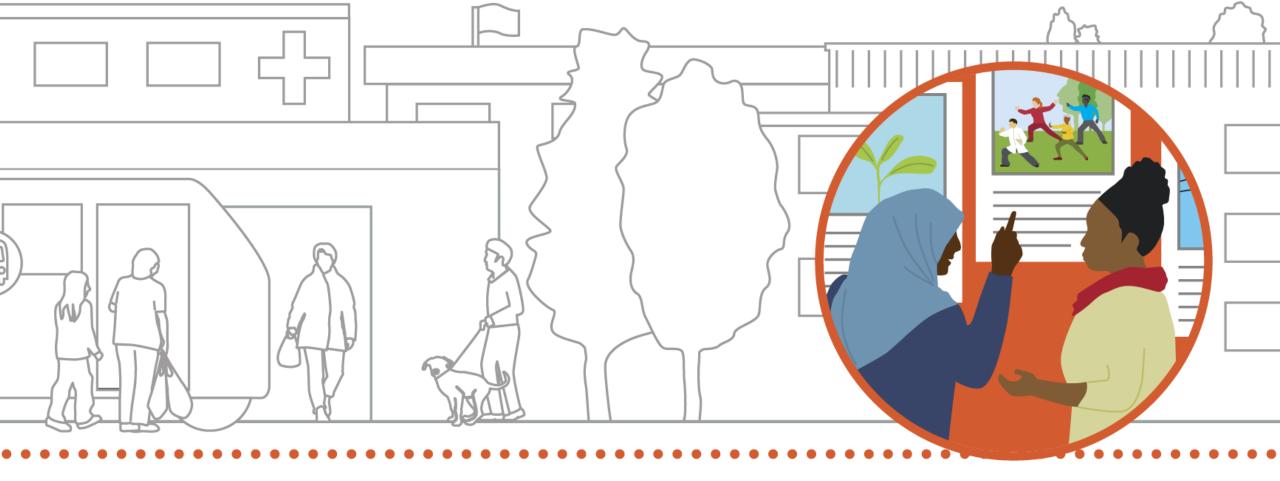
Governance that limits meaningful participation



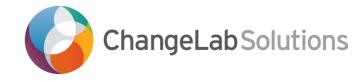
Disparities in opportunity

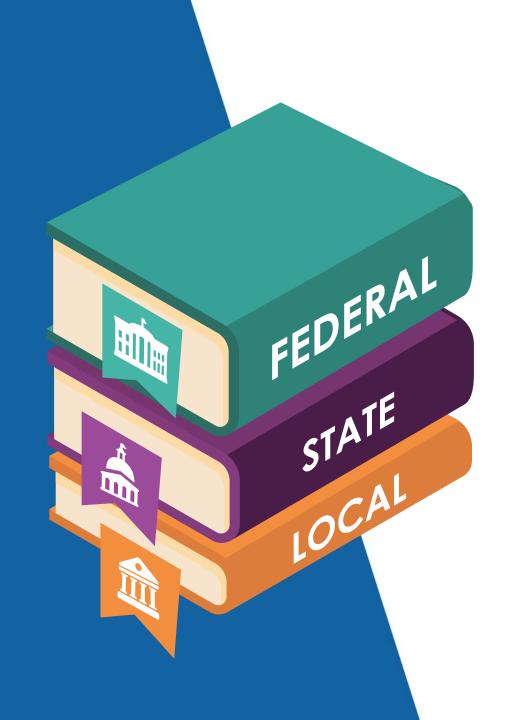


Good Governance



Preemption





What is Preemption?

When the law of a higher level of government limits or invalidates the law of a lower level of government





"People who live in cities and towns want control over their own destinies," said National League of Cities CEO and Executive Director Clarence E. Anthony. "When states take away the ability of local leaders to make decisions, the values and will of the people are ignored."

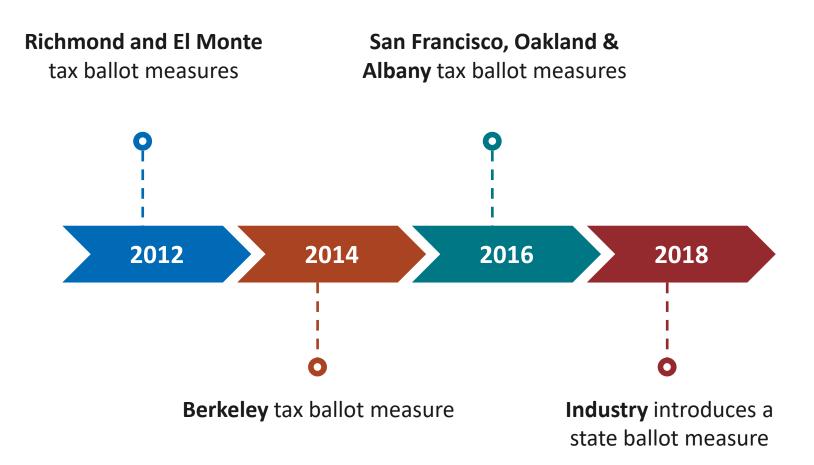


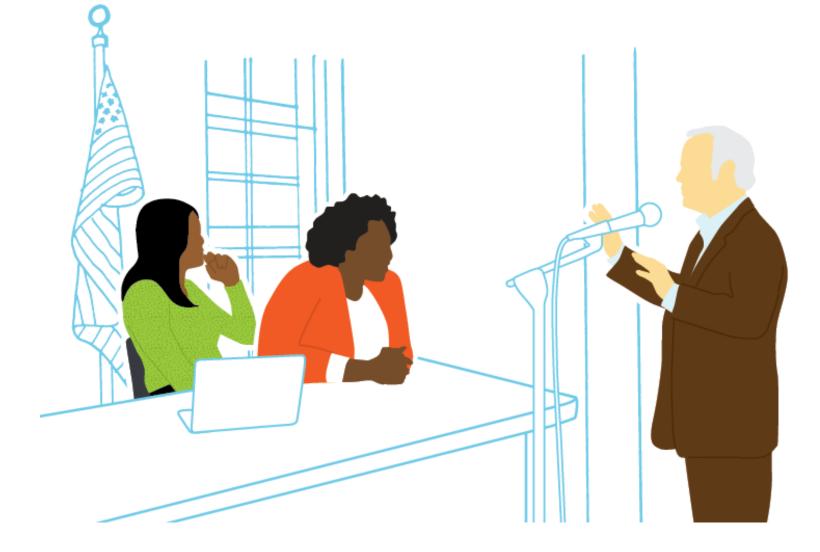
Preemption isn't universally negative or inherently partisan



California Sugary Drink Tax Preemption

Timeline





Preemption Bill – AB 1838

AB 1838 elements

- Preempted all new sugary drink taxes until 2031
 - Existing taxes could remain in effect but not change
- Included a penalty provision
 - If a charter city enacted a tax and a court found that tax to be a valid exercise of the charter city's constitutional authority, the state could not administer the charter city's sales tax



Litigation Pushing Back

Lawsuit Victory

March 2023

Ruling Affirmed in California Sugary Drink Tax Preemption Lawsuit

ICENSE

Press Release: Court of appeal affirms that state cannot penalize charter cities for managing municipal affairs

FOR IMMEDIATE RELEASE



Litigation as a strategy



Litigation can be slow



The legal issues can be wonky



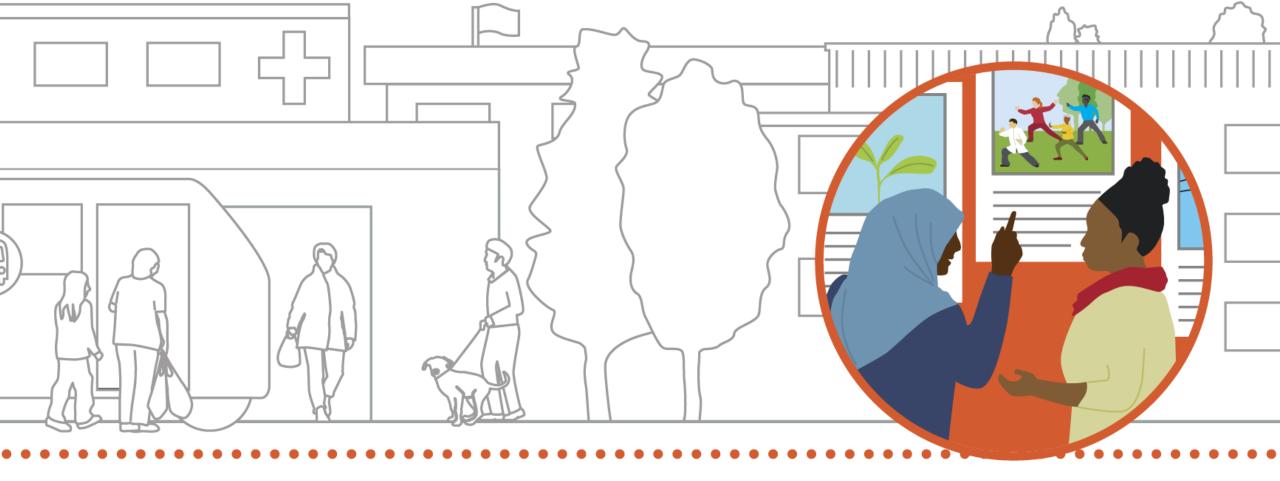
Collaboration is critical



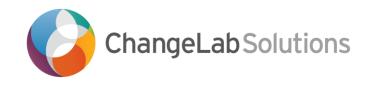
The role of community



Funding!



Equitable Implementation



Equitable Implementation



The process of ensuring that laws and policies are developed, enforced, and evaluated, while considering + minimizing harms to underserved communities

Equitable Enforcement + Public Health



Administrative



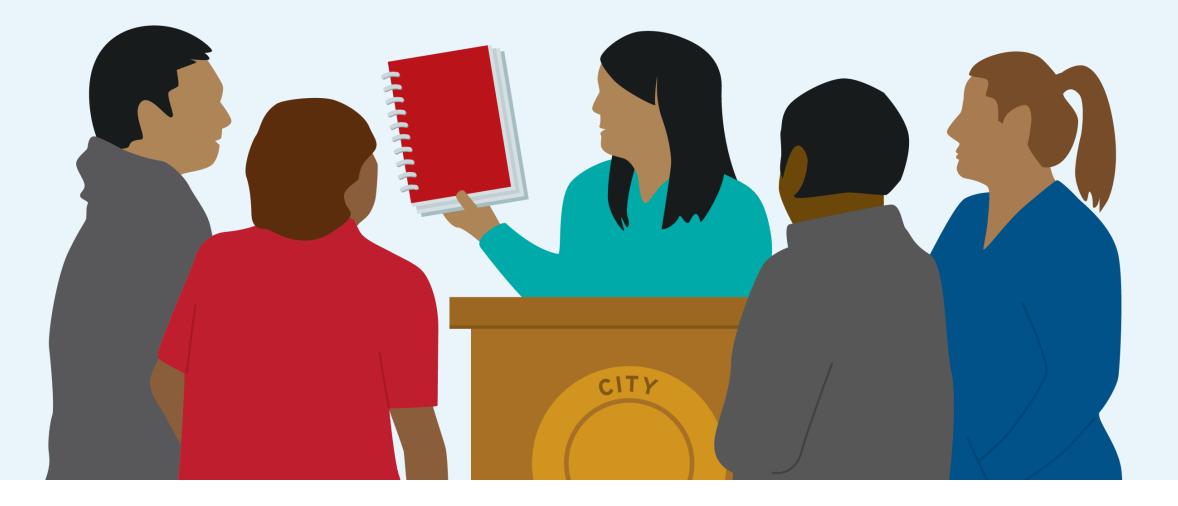
Criminal



Civil



Emergency



Inequitable enforcement

overenforcement & underenforcement

Overenforcement

When laws designed to protect the health of the public are **disproportionately enforced** in or **disproportionately affect marginalized communities**



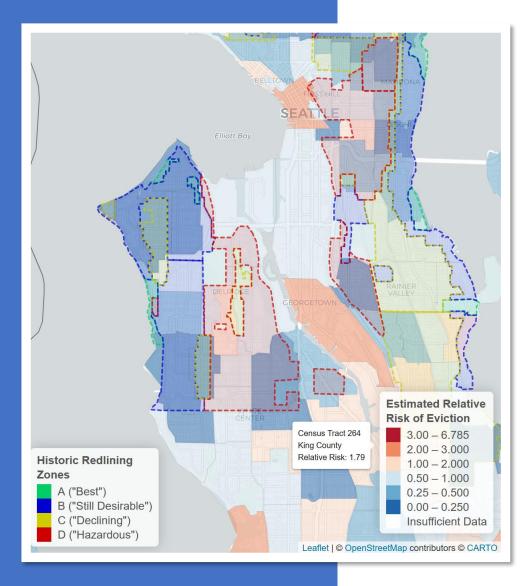
Underenforcement



When laws that are designed to protect communities from threats to health and economic security are **not consistently enforced**



Eviction, housing instability, and health



case study Seattle, WA

In 2020, researchers found:

- Women were more often evicted than men
- Black and Latine households were evicted more often than white households

Why? Multiple factors, including:

- Lack of availability of affordable housing
- Rising rents
- Rent burden on Black and Latine households

The highest risk of eviction often occurred in formerly redlined neighborhoods

Moving towards equitable implementation

- How can we design policies that achieve more equitable outcomes?
- How can we better understand the consequences of enforcing a policy?
- How can implementation strategies promote equitable outcomes?





- Proactive, systematic testing
- Public education for housing providers
- Proactive rental inspection
- Landlord repair funds
- Support for displaced tenants
- Right to counsel policies
- Increased funding for civil legal services
- Medical-Legal partnerships

Underenforcement

Equitable solutions



- Repeal chronic nuisance ordinances
- Decriminalize disability by decriminalizing homelessness
- Enact laws to ensure people with pertinent training respond to incidents involving people with mental health concerns
- Adopt policies mirroring and expanding VAWA protections (right to report)
- Invest in diversion programs to direct people to appropriate supportive services

Overenforcement

Equitable solutions

Strategies for Equitable Implementation

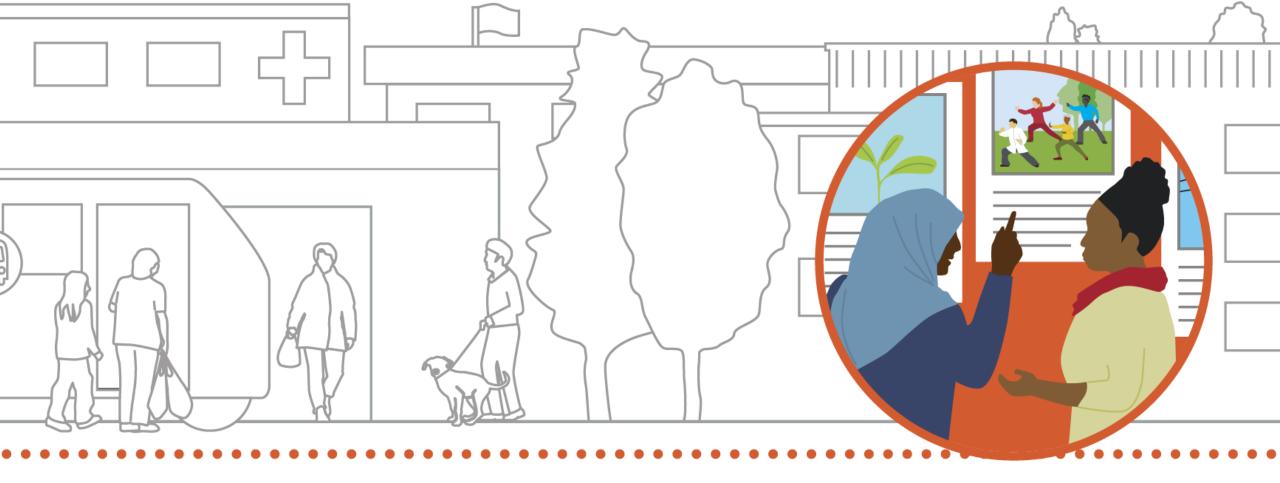
- Involve affected communities & groups
- Change the culture of enforcement
- Develop cross-sector or interagency coordination and partnerships
- Mitigate harm to affected communities



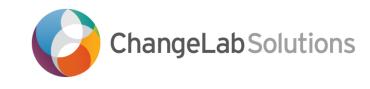
What's Next?

- Policy choices prioritize power and privilege
- Invest in solutions that reverse entrenched power dynamics and promote equitable implementation
- Build capacity for policy innovation and evaluation
- Equitable implementation is a tool that can promote health justice – in the housing context and beyond





Proactive Rental Inspection: Equitable Implementation in Practice

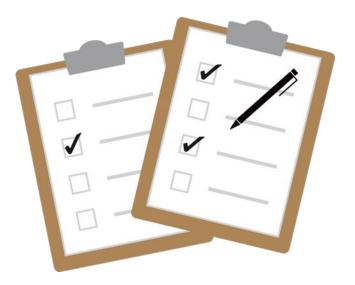


Housing Problems in any of these areas can contribute to chronic stress, which & Health QUALITY is associated with chronic medical conditions, like heart disease, diabetes, and cancer. **Poor housing can:** Worsen respiratory illness • Cause childhood lead poisoning • Lead to injury or death Racial Climate (in)justice change Unaffordable housing can: Housing instability can lead to: • Force people to choose • Mental health conditions like between paying rent and depression and anxiety AFFORDABILITY buying groceries or going to • Behavior problems in children the doctor • Homelessness STABILITY

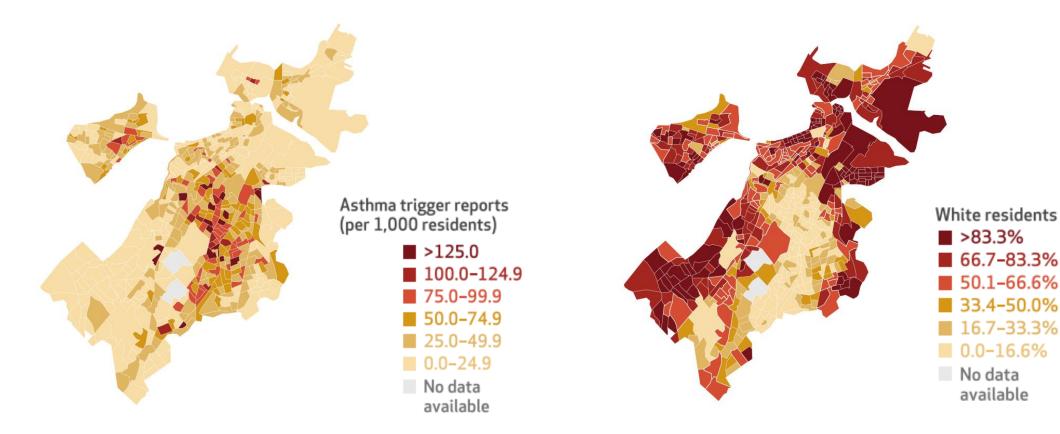
Power

Housing codes & code enforcement

- Promote the safety and habitability of homes and advance the health and welfare of communities
- Set minimum standards for housing conditions that all rental housing must meet
- Traditionally enforced on a complaint-basis



Case study: Boston, MA



Source: Lemire, E., Samuels, E. A., Wang, W., & Haber, A. (2022). Unequal housing conditions and code enforcement contribute to asthma disparities in Boston, Massachusetts.

Geographer Ruth Wilson Gilmore defines racism as 'the statesanctioned or extralegal production and exploitation of group-differentiated vulnerability to premature death.' To ensure that their actions do not meet this definition, municipal governments must enact and strengthen enforcement policies to ensure that the risk from dangerous housing does not fall predominantly on marginalized populations or poor communities."

Lemire, E., Samuels, E. A., Wang, W., & Haber, A. (2022)

Structural challenges in housing code enforcement

- Code enforcement has a history of being inequitably used as a tool to clear Black neighborhoods
- The process for responding to complaints of substandard housing often allows landlords to put off remediation through extensions and delayed re-inspection
- Tenants with the greatest needs may face structural barriers to using the complaintbased code enforcement system



Proactive Rental Inspection Systematic, regular inspection of rental properties **improves tenant health and stability**



Proactive Rental Inspection

Systematic, regular inspection of rental properties **improves tenant health and stability**

Challenges

- Overenforcement can displace tenants and drive small landlords out of the market
- Underenforcement continues housing-related health harms disproportionately experienced by BIPOC and low-income tenants

Equitably enforcing PRI

- Involve affected communities & groups
- Change the culture of enforcement
- **Promote cooperation** with landlords through cooperative compliance
- Develop cross-sector or interagency coordination and partnerships
- Mitigate harm from enforcement



Equitably Enforcing PRI

Involve affected communities

- Homes for All St Louis built a coalition including tenants and government partners who co-designed improvements to housing code inspections and enforcement.
- The coalition adopted anti-displacement as a shared value and goal for housing code enforcement.

Equitably Enforcing PRI

Change the culture, promote cooperation, and develop cross-sector and interagency partnerships

- In Syracuse, NY, the code enforcement department pays community ambassadors to assist with inspections and to connect tenants and landlords with resources.
- Code enforcement officers are trained to exercise enforcement discretion judiciously and follow a "cooperative compliance" model.

Equitably Enforcing PRI

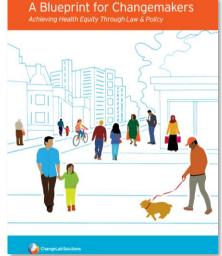
Mitigate harm

- Prevent landlords from passing on repair costs and protect tenants from sharp rent increases using rent control laws, rehabilitation assistance programs, and rent withholding mechanisms.
- Support tenants who are displaced from their housing by establishing funded tenant relocation assistance programs and adopting and enforcing laws that prohibit landlord retaliation.



PRI implementation should be guided by a shared value of promoting community health and well-being.

Preemption Resources



Fundamentals of Preemption

100.00



Assessing & Addressing Preemption: A Toolkit for Local Policy Campaigns



ChangeLabSolutions

Assess the Role of Preemotion in Public Health

Denek Carr, 10/15abrina Adler, 10/1 Berjamin D. Wing, 10; MPA,1 Jennifer Karse Montes, Ph.0/

* Changeliab Solutions, Galand, CA * Separtment of Sociology and Aging Budles: Institute, Teracuse University, Teracuse, NY.

Contest: Due to the anequation double-bolino of neurosu accold determinants of leadsh, disporting is headth and well being are total to where an individual leace. In the United Datase, a sig code of the before predicts a person's headth than their genetic code. As communities used to relation these neurophics, many line (into, due to other percentation, their aproved who distants them adding to pourse many equilability leads.

Methods: This article reviews the rule of law and policy in the generic of health inequities and highlights have privatelytein has both crashed and alkinided and heapaties. We demonstrate hears a scientific tension of incidence in individual backgrides and advance a move pull approach to preamption and outline a insciunch general to capport future action.

fieldings (are and policy have been central to creating headth inequilities, and while those same tables are promote headth sight; and the policy are using prompilation with increasing regularity to these tool policies that may improve headth and search, tensortheless, prompilation to indensity indensity to policy headth, and policy are and the analysis fielderail club sight, laws, for example, have a continued policy means that club and discrimination, movement withing themeworks for assuming pre-implicities fail to recorde its polaritability to be alware and the best and poly.

Canadasians: Worknessing, in entiting presengition fluoreeurols, demonstrate the need for new approaches to the developing as a carbot discretization in assuring presengition. We propose the development of an apply find provergition fluoreeurols to antibility and an assuring the enderson-based orthesis to assuring the enderson presengition of historic angle and a research applied by developing the enderson excession to inform and sportstrender the framework. As equily first encomparison while advances of the feature government to total board actions that and innovation while advance gathers and the feature government to total local actions that and thing to make an appropriate respective.

his is a propert of an inticle accepted for publication in the Milliank Quarterly-D (2015) the Milliank Milliank Milliank Milliank Milliank

Blueprint for Changemakers Fundamentals of Preemption Assessing & Addressing Preemption Toolkit

Equity-First Preemption article

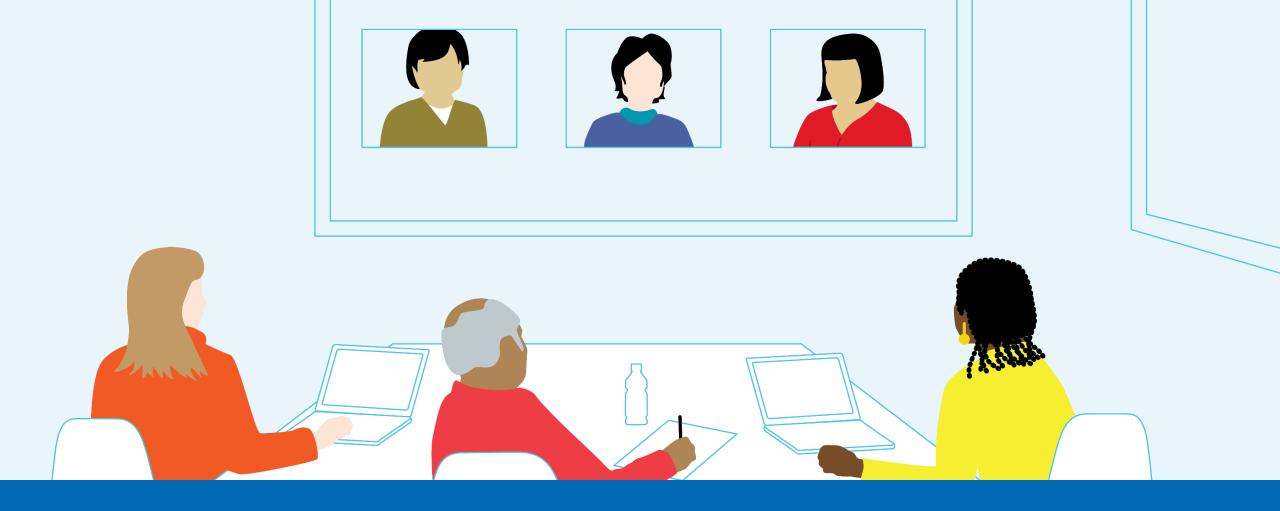
www.changelabsolutions.org/good-governance/preemption



Resources



Available at www.changelabsolutions.org



Questions?

Stay connected!

Sabrina Adler sadler@changelabsolutions.org www.changelabsolutions.org

Maya Hazarika Watts mwatts@changelabsolutions.org www.changelabsolutions.org

Katie Hannon Michel kmichel@changelabsolutions.org www.changelabsolutions.org

Subscribe to our mailing list:





