

Beyond Legislation: Litigation, Rulemaking, and Policy Implementation to Promote Health Equity

September 17, 2025

Slide 1

AEO

I don't love the conference template slides have moved all (but the title slide) to the last section, just to have for reference.

I'm also OK with using one of our template title slides instead of this one!

Alexis Etow, 2025-09-04T03:45:17.176

Speakers



Sabrina Adler, JD
Vice President of Law
ChangeLab Solutions



Sarah de Guia, JD
Chief Executive Officer
ChangeLab Solutions



Alexis Etow, JD
Managing Director
ChangeLab Solutions

Slide 2

AEO **[@Sabrina Adler] Will Sarah be joining this panel?**
Alexis Etow, 2025-09-08T16:25:21.264



Our Mission

Healthier communities for all through
equitable laws & policies



Scan the QR code to visit the
[ChangeLab Solutions](https://www.changelabsolutions.org/) website!



Slide 3

AEO Replaced prior “about us” slide” with this one that includes a QR code to our website
Alexis Etow, 2025-09-11T22:14:39.278



Finding & Reading the Law

A Skills-building Training for Changemakers

- Designed to build confidence navigating the law
- Small-group, interactive training
- Collaborative, hands-on learning
- 2-hour virtual session
- 1-hour follow-up for skills building
- Early bird & group discounts available



Legal knowledge isn't just technical – it's transformational.

Who's in the Room?

Raise Your Hand If...



Agenda



Litigation to Advance Health Equity



Community-centered Rulemaking



Equitable Implementation of Public Health Laws



Discussion and Q&A

Slide 6

- AEO** [@Sabrina Adler] Should we include some sort of quick ice breaker to get a sense of who is in the room? I can keep thinking on this, but it might be nice to weave in some elements of interactivity/engagement throughout.
Alexis Etow, 2025-09-11T01:02:00.234
- SAO 0** Yeah, I think that would make sense. I'd like to keep it interactive, as much as possible. We can brainstorm together.
Sabrina Adler, 2025-09-11T18:58:41.685
- AEO 1** Let's chat more on Monday. Even something simple as asking folks to raise their hands or stand when we call out certain sectors or types of training to help get a sense of # of folks with legal background/training in the room, folks from nonprofits/NGOs, academia, researchers, CBOs, govt, etc.
Alexis Etow, 2025-09-12T23:32:24.916

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.

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Team Acknowledgments

Thanks to many members of the ChangeLab Solutions team for their contributions to the work that is covered in this presentation, including:

AE0

Katie Hannon Michel
Jami Crespo
Jessica Breslin
Maya Hazarika Watts

Rebecca Johnson
Wesley Hartman
Shannon Rempe
Chelsea Wu

Sabrina Adler
Alexis Etow

Slide 8

AEO Include funding acknowledgment? If so, we should also mention RWJF.

Who else am I missing from the project teams? I didn't include Sabrina or I because we'll be presenting, but let me know if we should list everyone.

Alexis Etow, 2025-09-04T04:05:18.242

SAO 0 Do you think we have to include the CDC acknowledgment? I don't know how that works for past work that we're building on. If so then yes we should prob include RWJF even though we don't usually for stuff like this.

Sabrina Adler, 2025-09-11T19:02:24.884

AEO 1 We typically include a nod to them for the admin law work. I might rework this slide and move the acknowledgement + link to admin law trainings to the second section.

Alexis Etow, 2025-09-11T22:11:26.425



Litigation to Advance Health Equity

Slide 9

AEO **[@Chelsea Wu]: Can you please add a visual for this title/transition slide?**
Alexis Etow, 2025-09-05T19:32:01.485

What is Strategic Litigation?

- Large scale/long-term impact
- Part of an advocacy strategy
- Can be affirmative or defensive



How Can Strategic Litigation Be Used to Advance Health Equity?

- Can be used for various purposes:
 - To hold entities, including government, accountable
 - To defend “civil society and policies”
 - To define or clarify interpretation and implementation of laws
- Can protect or expand upon rights (or overturn or limit rights) in ways that affect health and equity
- Can impact government powers or authority in ways that affect health and equity



Advantages and Disadvantages



Advantages

- Can ensure implementation and enforcement of laws
- Can spur broader behavioral change
- Can hold the powerful accountable
- Can provide monetary compensation to harmed parties
- Can lead to legislative or regulatory change



Disadvantages

- Usually requires (sometimes significant) monetary resources
- Can be time intensive and require a long timeline
- May affect only one dispute
- Can create legislative or regulatory backlash
- Can be uncertain or unpredictable
- Can result in bad or harmful legal precedent

When to Use Strategic Litigation



Clarifying existing law



**Upholding the structure
of government**



**Defending challenged
policies**



Enforcing existing law



**Legal authority and
preemption**

Practical considerations and a risk/benefit analysis also factor in

When to Consider Other Approaches



A totally new law is needed



Possibility of change through executive action



High risk of bad precedent or backlash

*Or when the risks otherwise outweigh the potential benefits, especially as compared to other avenues



Additional Considerations

- Who to engage in decision-making
- Causes of action
- Parties and litigators
- Standing
- Which court
- Timing
- Scopes and types of relief



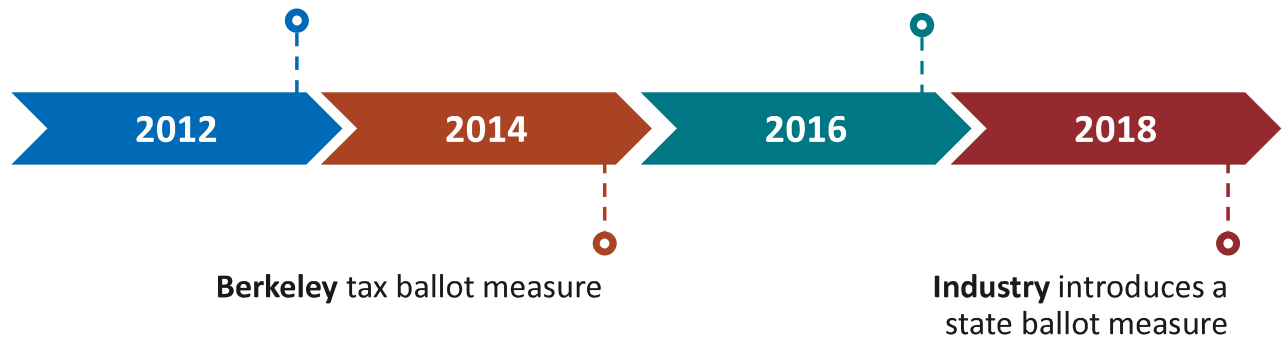


California Sugary Drink Tax Preemption

Timeline

Richmond and El Monte
tax ballot measures

San Francisco, Oakland & Albany tax ballot measures



Preemption Bill AB 1838

- In 2018, the beverage industry qualified a ballot measure threatening local government's revenue-raising ability
- The measure could have devastating consequences
- Industry agreed to remove ballot measure days before deadline in exchange for preempting local sugary drink taxes until 2031



Slide 18

CWO [@Alexis Etow] [@Sabrina Adler] [@Jami Crespo]

I added bullets since there was substantial information on the notes. I also split the slide to make the text fit.

While these are from the notes, please review these for accuracy and make changes as needed. Thank you!

Chelsea Wu, 2025-09-12T20:11:58.077

Preemption Bill AB 1838

- Meanwhile, several California cities had been preparing to enact sugary drink taxes
- Stockton youth activists traveled to Sacramento to implore legislators not to vote in favor of preemption
- State legislators voted for preemption, citing they had no choice



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



Getting a Second Opinion



Convening Partners and the Advocacy Community



Finding the Right Lawyer



Working with Plaintiffs



Funding

Litigation Pushing Back



Getting a Second Opinion

- Sought expert review from municipal law and taxation specialist to confirm findings



Litigation Pushing Back



Convening Partners and the Advocacy Community

- ChangeLab gathered partners and advocates from across the public health and social justice movements
- Collected perspectives and concerns from these stakeholders
- Goals were twofold:
 1. **Find consensus** on whether filing a lawsuit was the best course of action to challenge the state preemption; and
 2. **Clarify roles and responsibilities** among the various stakeholders.



Litigation Pushing Back



Finding the Right Lawyer

- Before embarking on a lengthy litigation process, ChangeLab Solutions found a lawyer who was an expert and a good partner



Litigation Pushing Back



Working with Plaintiffs

- ChangeLab prioritized plaintiffs most affected
- Two plaintiffs emerged:



1. **Martine Watkins**, a resident and city council member of Santa Cruz, and
2. **Cultiva La Salud**, an organization dedicated to advancing health equity in the San Joaquin Valley

Litigation Pushing Back



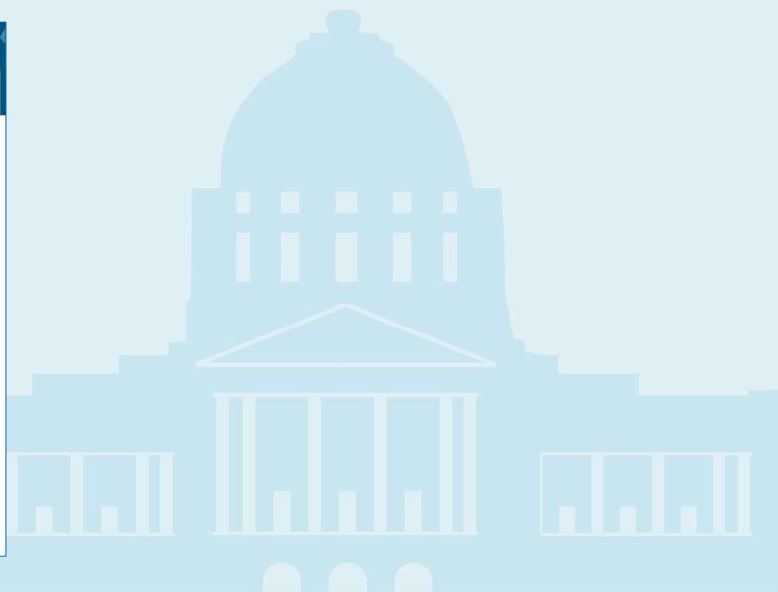
Finding the Money

- Needed to ensure the lawsuit was viable from the financial perspective



Ruling Affirmed in California Sugary Drink Tax Preemption Lawsuit

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



Lawsuit Victory

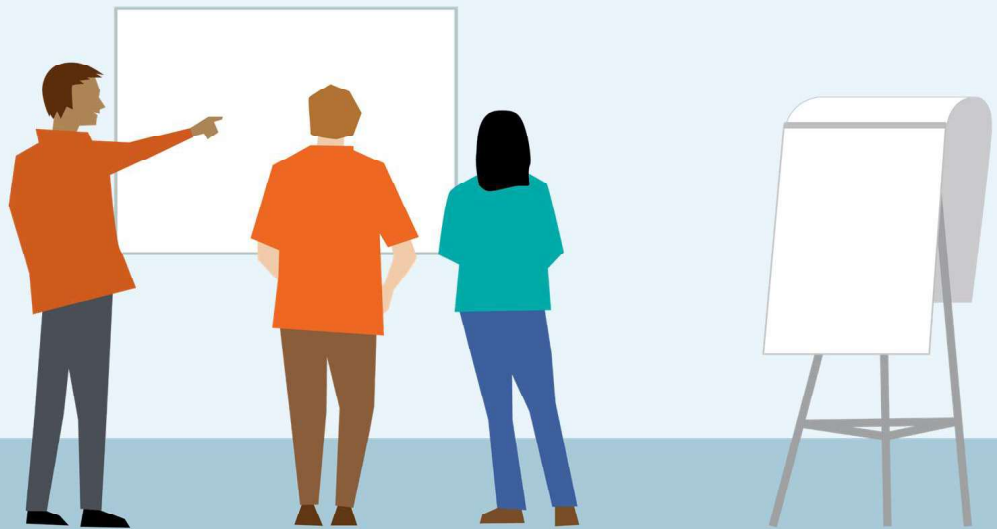
March 2023

Santa Cruz Passes a Tax

November 2024

- Industry outspent tax proponents 50 to 1
- Tax was enacted by voters
- Industry filed a lawsuit claiming the tax is preempted
- Litigation is pending
- Santa Cruz victory would clear the way for other charter cities in California





Community-centered Rulemaking



What Legal Powers Do Health Departments Have?

Part 1 of our series on administrative law explores the legal powers and limits of public health agencies, including the basis for their authority and the importance of due process.

GET TRAINED >>

How Do Health Departments Create Regulations?

Part 2 of our series on administrative law explains how health departments create regulations, policies, and guidance documents and, most important, how they can promote health equity as they perform these activities.

GET TRAINED >>



Public Health Law Academy

Administrative Law Training Series

Acknowledgement:

Parts of this presentation build on work supported by Cooperative Agreement Number NU38OT000307 awarded to ChangeLab Solutions and funded by the CDC.

The contents are those of the author(s) and do not necessarily represent the official views of, nor an endorsement, by CDC/HHS, or the U.S. Government.

Available at: publichealthlawacademy.org

Slide 30

AE0 [@Chelsea Wu] I added this slide, in case you have time to take a quick look!
Alexis Etow, 2025-09-11T22:27:37.664

CW0 0 **x**
Chelsea Wu, 2025-09-11T23:45:31.985

Regulations v. Statutes

Regulations/Rules

- Drafted by administrative agencies
- Fills in the details
- **Codified in an administrative code**



Statutes/Ordinances

- Drafted by a legislative body
- Sets the big picture
- **Codified in a statutory code or code of ordinances**



Both have the effect of law.

What Are the Most Common Areas of Regulation for LHDs?



1. Food service establishments (75%)
2. Schools/day care (70%)
3. Septic systems (62%)
4. Recreational water (59%)
5. Body art (54%)
6. Hotels/motels (50%)
7. Lead inspection (50%)
8. Private drinking water (49%)
9. Children's camps (47%)
10. Campgrounds & RVs (43%)

Food Safety

- State and local health departments are the first line of defense
- They keep us safe against food-borne illnesses by:
 - Adopting food safety regulations,
 - Monitoring compliance, and
 - Responding to outbreaks



Why is Admin Law Important for Public Health Practitioners?

- Administrative law doctrines act as **guardrails** that shape how health departments and other agencies carry out their day-to-day work
- Guardrails can **promote basic fairness** for people and businesses, as well as **agency transparency and accountability** to the public
- This is particularly important for public health actions, where the fundamental principle is to balance the **rights of affected individuals** with **protection of the common good**



Slide 34

- JC0

[@Alexis Etow] [@Sabrina Adler] I think this slide could go.

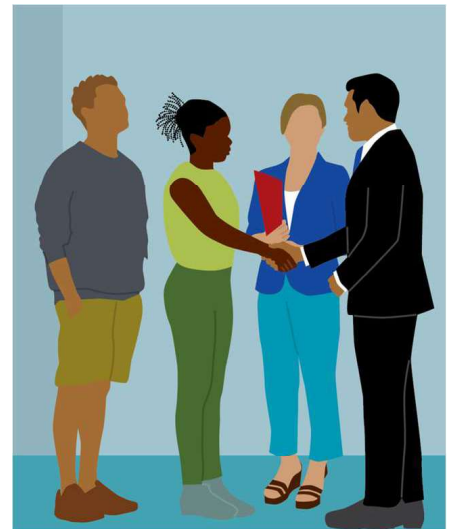
Jami Crespo, 2025-09-10T02:35:45.072
- AE0 0

(Updating my comment after Sabrina and I chatted): it might be worth leaving this in, especially since we have resources (the admin law trainings) to uplift here.

Alexis Etow, 2025-09-11T00:59:52.101

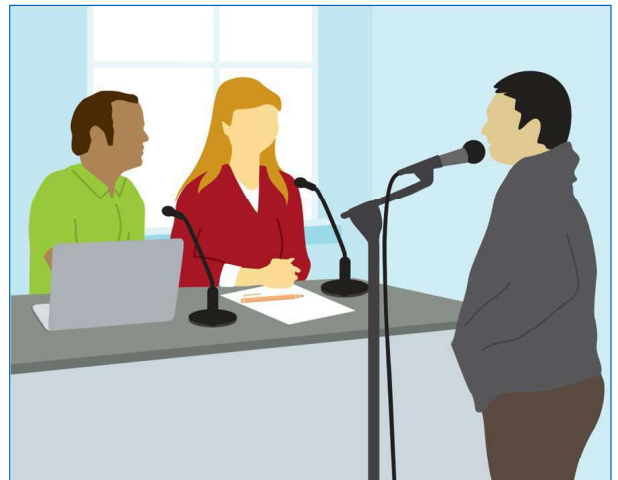
Why is Rulemaking Important for Public Health Practitioners?

- Public health regulations and other administrative actions profoundly impact the **nation's health**
- Understanding administrative law helps health departments influence or participate in the **rulemaking processes of other agencies**



Steps for Rulemaking

1. Conduct extensive research
2. Draft text of regulation
3. Provide public notice
4. Provide an opportunity for public comment
5. Revise and finalize the regulation



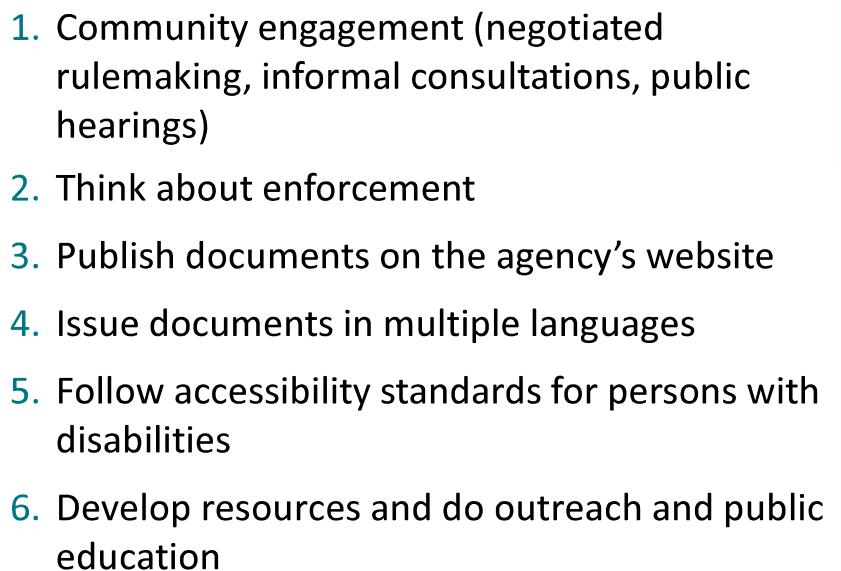
What is Health Equity?

“Health equity means that everyone has a fair and just opportunity to be as healthy as possible. This requires removing obstacles to health such as poverty, discrimination, and their consequences...”

- Paula Braveman



Equitable Rulemaking

- 
1. Community engagement (negotiated rulemaking, informal consultations, public hearings)
 2. Think about enforcement
 3. Publish documents on the agency's website
 4. Issue documents in multiple languages
 5. Follow accessibility standards for persons with disabilities
 6. Develop resources and do outreach and public education

Put People at the Center

- Whose lives are most affected by the issue?
- Whose work touches on the issue?
- Who is often left out of the process?



Enforcement

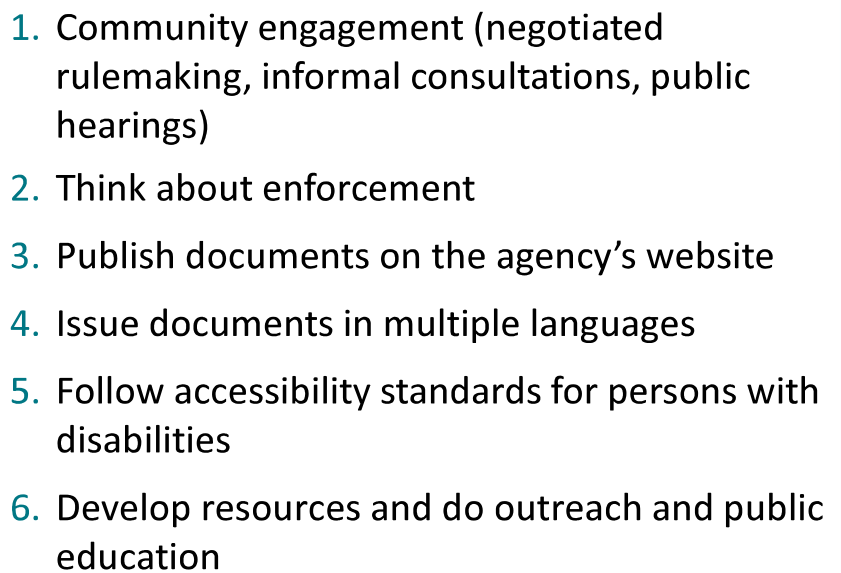
- Who can enforce?
- Who is subject to enforcement?
- What are the penalties?
- Is evaluation required?



Slide 40

JC0 [@Alexis Etow] Give a nod back to the previous section.
Jami Crespo, 2025-09-10T03:11:06.278

Equitable Rulemaking

- 
1. Community engagement (negotiated rulemaking, informal consultations, public hearings)
 2. Think about enforcement
 3. Publish documents on the agency's website
 4. Issue documents in multiple languages
 5. Follow accessibility standards for persons with disabilities
 6. Develop resources and do outreach and public education


Why Equitable Rulemaking?

- Increases accountability and builds support for regulations
- Increases civic engagement which improves public health
- Promotes fairness which is especially important for public health actions, where the fundamental principle is balancing individual rights with the common good

Slide 42

- JC0** [@Alexis Etow] [@Sabrina Adler] Wondering if we want to talk about Washington or Seattle at all. In previous presentations, they have developed their own slides and presented on their stuff.
Jami Crespo, 2025-09-05T21:35:11.267
- AE0 0** Do you have a sense of where timing is at for this section? If we have a few minutes to uplift WA/Seattle as a case study, that could be a nice illustration of equitable rulemaking "in practice." Otherwise, if we're tighter on time, maybe we mention that they're doing great work and encourage folks to check out their website (and/or any relevant resources) to learn more.
Alexis Etow, 2025-09-08T13:49:45.215
- JC0 1** I added in the example and also made some other updates to streamline the content. It's at about 15 now.
Jami Crespo, 2025-09-10T02:18:35.057
- SA1** In light of Matt Pierce's comment the other day re trust, I wonder if we want to say in the first bullet that it is a mechanism for government to be more accountable and builds support (or something like that).
Sabrina Adler, 2025-09-11T19:55:17.377
- AE1 0** Good point - I've made some revisions to the slides + notes
Alexis Etow, 2025-09-11T21:50:22.143

Washington Equitable Rulemaking


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In this section

- [Healthcare Professions and Facilities](#)
- [Best Practices](#)
- [Centers of Excellence for Perinatal Substance Use](#)
- [Coordinated Quality Improvement](#)
- [Data Exchange](#)
- [Epinephrine Autoinjectors](#)
- [Equitable Rulemaking](#)**
- [Facilities Licensing](#)

Equitable Rulemaking



Ensuring Everyone is Given a Voice

Overview

Health System our rulemaking processes, rule throughout the using listening

Barrier

In 2020, Wash anti racist state complex. Man functions und meetings that guide our wor

Equitable Rulemaking in Washington State

In 2023, the Washington State Department of Health (WA-DOH) began implementing changes to their rulemaking process to make it more accessible to communities that are economically and/or socially marginalized. The COVID-19 pandemic displayed the health disparities present in the state and WA-DOH recognized that existing policies could disproportionately impact certain communities. In addition, enacting [Healthy Environment for All \(HEAL\) Act](#) in 2021 and [Executive Order 22-04](#) in 2022 directed state agencies to integrate both environmental justice and equity into their administrative processes.

WA-DOH was already allocating resources to expand capacity for equity and engagement initiatives, as well as implementing a cloud-based system to streamline workflow. The department also learned from agency staff about challenges and successes when engaging affected communities in state policy. WA-DOH transformed its rulemaking process with a thorough review of the rulemaking process, collaboration from agency staff, and technology to make it more equitable and inclusive so residents can better affect the systems that determine their health and well-being.

Roadmap to Equitable Rulemaking

In April 2022, WA-DOH formed an Equitable Rulemaking Workgroup/ Action Team to enhance the current process in a way that promotes health equity and eliminates health disparities. Over the next year, the group held meetings with the agency's Executive Offices for Equity, Policy, and Strategic Partnerships to discuss how to meet the goals, objectives, and purpose of equitable rulemaking. They held a listening session with rules managers, equity and social justice managers, and rules staff from across the department to identify challenges, best practices, and available resources in the current rulemaking process:

- There was difficulty identifying affected communities whose voices are not engaged or elevated in rulemaking and developing outreach strategies to address this issue.
- It is crucial to engage and repair trust with historically marginalized communities and strengthen their capacity to

WA-DOH Equitable Rulemaking Workgroup/ Action Team Members

- Executive Office for Public Affairs and Equity (OPAE)
- Executive Office for Policy, Planning, and Evaluation (OPPE)
- Executive Office of Strategic Partnership (OSP)
- Division of Environmental Public Health (EPH)
- Division of Disease Control and Health Statistics (DCHS)
- Division of Health Systems Quality Assurance (HSQA)

Slide 43

JC0 [@Chelsea Wu] I just put in this slide and it is a new one. If you have a few minutes, could you please review.
Jami Crespo, 2025-09-10T03:32:09.718

CW0 0 I tweaked the images a bit, but otherwise this is fine.

For accessibility, if you're going in detail on these examples, they need bullets.

From the notes that doesn't seem like the case which is why this is still okay.
Chelsea Wu, 2025-09-11T17:49:13.575

JC0 1 Thanks Chelsea. Correct, the images are just for reference purposes.
Jami Crespo, 2025-09-11T19:37:04.377



Equitable Implementation of Public Health Laws

Slide 44

AEO **[@Chelsea Wu]: Can you please add a visual for this title/transition slide?**
Alexis Etow, 2025-09-05T19:35:16.291

Key Concepts

- Equity
- Health equity
- Equitable Implementation (EI)
- Equitable Enforcement (EE)
 - Overenforcement
 - Underenforcement



Equitable Implementation (EI)

- EI = Equity + Policy Implementation
- Policy Implementation:
 - Actions taken to **carry out an enacted policy** in a manner that best achieves its **intended outcomes**
 - Implementation activities include:
 - Education
 - Monitoring
 - Administration
 - Enforcement



Equitable Enforcement



The process of **ensuring compliance** with law and policy that **considers + minimizes harms to underserved communities**

Overenforcement

When enforcement of laws or policies produces **disproportionate harms**, particularly for marginalized communities



Underenforcement

When enforcement of laws or policies affords **inconsistent or inadequate protections**, particularly for marginalized communities



The EI Ecosystem



Slide 50

AEO Move this earlier – possible framing slide? Move after definitions?

Having a centered perspective - thinking about all the stakeholders.

Along the continuum – regulatory in nature and subregulatory. We're talking about across / throughout the full constellation of things that influence how a law is implemented. Not all laws have regs that go along with it.

At each of those places, there are individuals/entities slotting in beyond formal rulemaking / other processes. (e.g., people in the permitting offices - what criteria are they using that go beyond regs)

All the things you can be doing that don't even require going through admin agency

Alexis Etow, 2025-09-15T21:19:24.158

Continuum of agency activities





Strategies

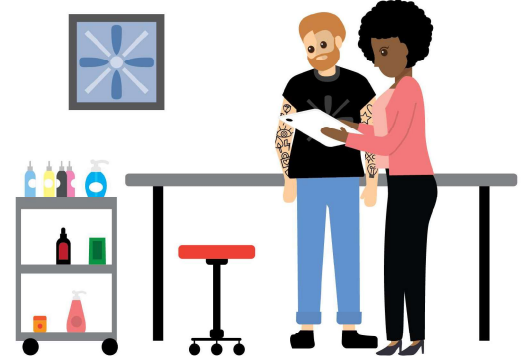
- Community engagement
- Specialized assessment tools
- Education & outreach
- Training & technical assistance
- Alternatives to punitive enforcement mechanisms





Permits and Licensing

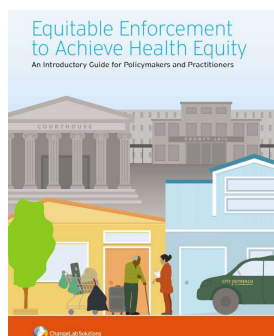
- Share guidance documents
- Hold workshops or trainings
- Provide technical assistance
- Outreach and education



The EI Ecosystem



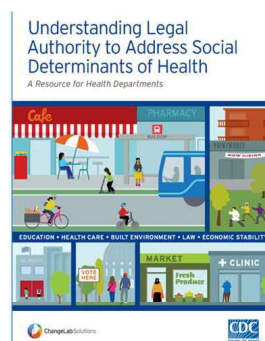
Resources



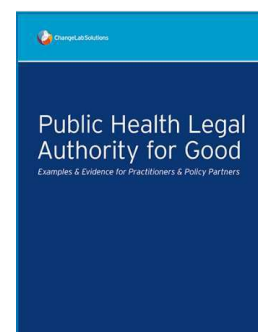
[Equitable Enforcement to Achieve Health Equity](#)



[Understanding the Equitable Enforcement Ecosystem](#)



[Understanding Legal Authority to Address Social Determinants of Health](#)



[Public Health Legal Authority for Good: Examples and Evidence](#)



Discussion and Q&A

Group Discussion

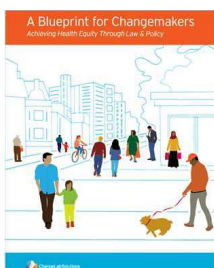
AE0

- How are you thinking about rulemaking in the current moment?
- What are the biggest challenges you're encountering related to the strategies discussed today?
- Where have you seen traction or these strategies working in certain places?



AEO Placeholder questions for now... we can refine
Alexis Etow, 2025-09-04T04:39:21.551

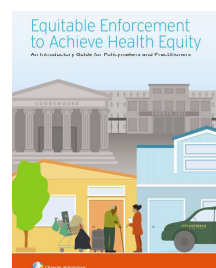
ChangeLab Resources



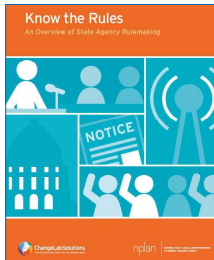
[Blueprint for Changemakers](#)



[Public Health Law Academy: Administrative Law & Health Equity](#)



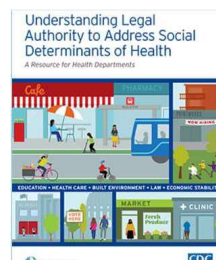
[Suite of Equitable Enforcement Resources](#)



[Know the Rules – An Overview of State Agency Rulemaking](#)



[Public Health Regulations](#)



[Understanding Legal Authority to Address Social Determinants of Health](#)

Slide 58

- AE0** Edits/additions?
Alexis Etow, 2025-09-04T04:19:40.560
- AE0 0** [Chelsea Wu]: Possible to include the Legal Authority resource here are well?
<https://www.changelabsolutions.org/product/understanding-legal-authority-address-social-determinants-health>
Alexis Etow, 2025-09-08T13:54:37.126
- AE1** QR code to website on this slide or slide 43?
Alexis Etow, 2025-09-05T19:14:54.131
- AE1 0** Added slide with QR code to CLS website to "Our Mission" slide at the beginning
Alexis Etow, 2025-09-11T22:13:52.081



Finding & Reading the Law

A Skills-building Training for Changemakers

- Designed to build confidence navigating the law
- Small-group, interactive training
- Collaborative, hands-on learning
- 2-hour virtual session
- 1-hour follow-up for skills building
- Early bird & group discounts available



Legal knowledge isn't just technical – it's transformational.

Thank you!

Sabrina Adler

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Sarah de Guia

Sdeguia@changelabsolutions.org

Alexis Etow

aetow@changelabsolutions.org



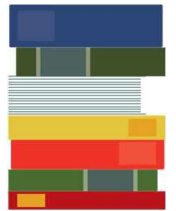
ChangeLab Solutions

Please take this survey to evaluate conference sessions.

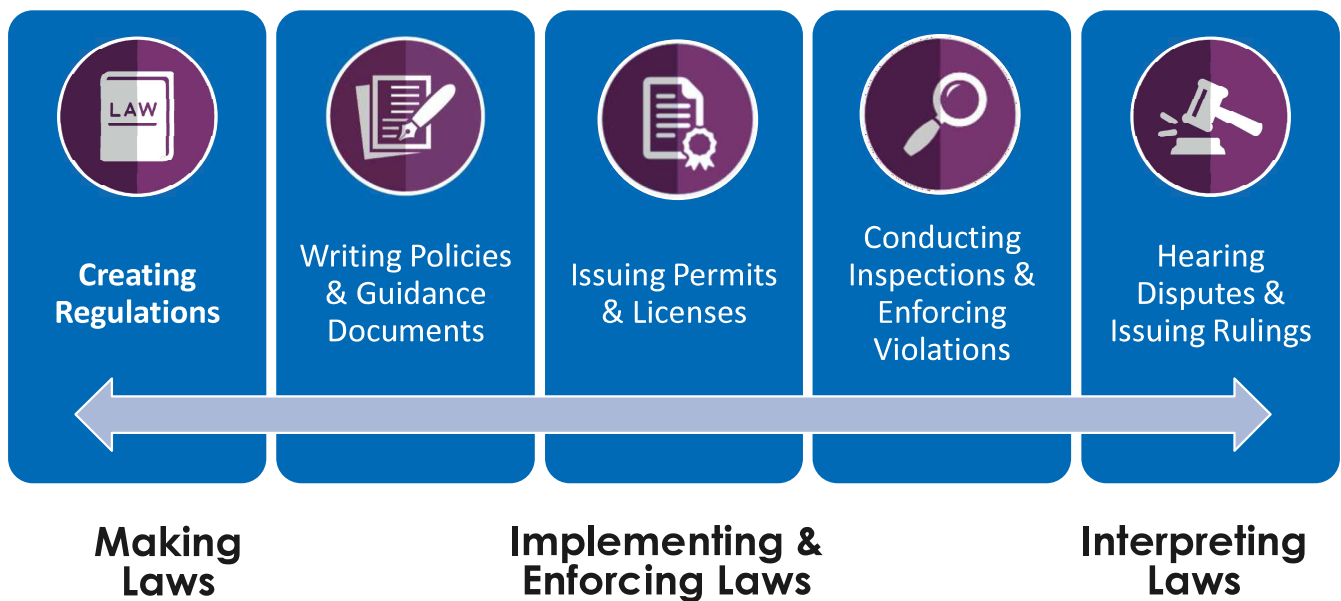


What is Administrative Law?

- Governs the organization and activities of **administrative agencies**, including public health agencies
- Acts as “guardrails” for regulatory activities to promote **basic fairness** to people and businesses, as well as **agency transparency and accountability** to the public



Continuum of agency activities



Regulations vs. Statutes

- **Regulations/rules** are laws developed and finalized by administrative agencies (e.g., FDA, EPA, state and local health departments).
- **Statutes/ordinances** are laws developed and finalized by a legislative body (e.g., Congress, a state legislature, a city council, a county board of supervisors).

Slide 64

- JC0

This slide has the same notes as the next slide. Preference for either visual?

Jami Crespo, 2025-09-05T20:28:48.085
- AE0 0

Maybe a slight preference for the second visual because it more clearly illustrates the side-by-side comparison; however, if this slide makes more sense to include (from a design perspective or otherwise, that's completely fine with me!). Might be question for Chelsea.

Alexis Etow, 2025-09-08T13:47:37.715
- JC0 1

[@Chelsea Wu] I also think I prefer the one on the next slide. Both had been previously cleared by you so assume ok to use the one on the next slide?

Jami Crespo, 2025-09-08T15:17:52.626
- CW0 2

Yep!

Chelsea Wu, 2025-09-08T21:43:43.732
- JC0 3

Thanks!

Jami Crespo, 2025-09-09T04:44:12.343

Delegation of Authority

Legislature

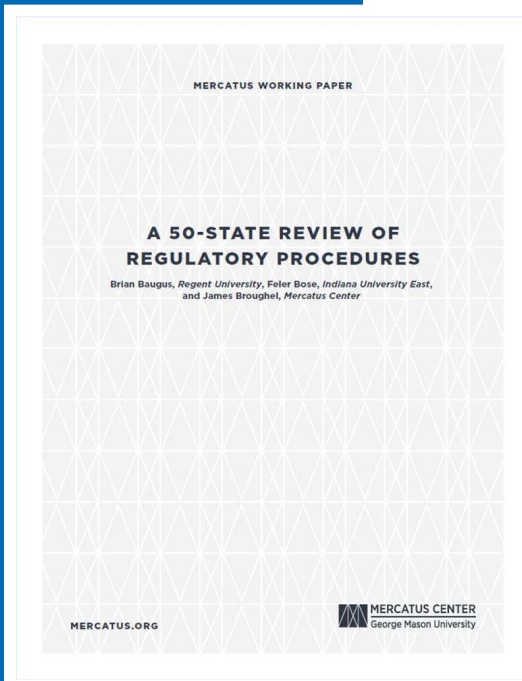


Executive agencies



How do rulemaking procedures differ across states?

- Form and types of notice
- Executive, legislative, or independent agency review
- Impact analysis
- Periodic review



Source: Brian Baugus, Feler Bose, and James Broughel, "A 50-State Review of Regulatory Procedures," Mercatus Working Paper, Mercatus Center at George Mason University, Arlington, VA, April 2022.

Enforcement

- Who can enforce?
- Who is subject to enforcement?
- What are the penalties?
- Is evaluation required?



Slide 67

AE0 [@Jami Crespo]: Curious to get your thoughts on whether this slide/discussion should live here or in the subsequent EI/EE section. If it makes more sense here, I can remove slides 34 and 35.

Otherwise, we can adjust the talking points on slide 23 or 25 to tee up the EI/EE + rulemaking discussion in the following section.

Alexis Etow, 2025-09-05T19:22:53.743

JC0 0 Jami will remove this slide and just briefly highlight enforcement on next slide and say Alexis will cover it in greater detail in the next section.

Jami Crespo, 2025-09-09T22:13:52.430

Contact

Please take this survey to evaluate conference sessions.



THANK YOU