

Structure of Government: Exploring the Fabric and Framework of Public Health Powers

Facilitator's Guide



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Who Should Use Our Facilitator's Guides?

Our facilitator's guides are intended for anyone who needs to provide training to public health practitioners about our legal system and its role in improving population outcomes. Public health practitioners may include health department staff, public health lawyers, public health nurses, public health educators, public health advocates, and public health faculty and students in graduate and undergraduate programs. To access facilitator's guides for our other trainings, visit www.publichealthlawacademy.org.

Training Overview

About This Training

All levels of government – federal, state, tribal, local, and territorial – have a role in protecting the public’s health. However, these roles are not clearly spelled out for every situation. State-to-state differences can be complicated, and the responsibilities of different government agencies might overlap when public health issues need to be addressed.

Confusion can arise when the **powers** of the different levels and branches of government are not clearly articulated or understood. This confusion can be especially difficult if there is an emergency requiring quick and decisive action.

The goal of this training, **Structure of Government: Exploring the Fabric and Framework of Public Health Powers**, is to direct attention to these challenges and explore how different levels of government can coordinate and collaborate to achieve shared public health goals. The training incorporates stories from the field and demonstrates how the powers and authorities of different government agencies play out in everyday practice. Examples include menu labeling, tobacco control, quarantine, vaccination, helmet requirements, and food safety.

Target Audience

This training has been developed with entry level and mid-tier public health officials in mind. No legal background is necessary.

Learning Objectives

- Describe how a balance of powers is maintained among the three branches of government.
- Identify the various types of laws that different branches of government can create.
- Explain why intergovernmental collaboration is important for achieving improved health outcomes.

Materials

- Facilitator’s Guide – This document can be adapted to provide a training that is customized for your community.
- Slide Presentation & Script – Separate files, the slides and script can be modified to reflect your audience, training content, and speakers.
- Facilitator’s Checklist – This is a separate file that will prepare you to deliver any training offered by the [Public Health Law Academy](http://www.publichealthlawacademy.org).

Equipment

- Laptop
- Projector

Instructions for Facilitators

Before starting, we recommend that you download the [Facilitator's Checklist](#), which is intended to prepare you to deliver any training offered by the [Public Health Law Academy](#). Below we have identified options for tailoring this training, [Structure of Government](#), for your audience and venue.

Prepare for the presentation

As the facilitator, you should first go through the materials to familiarize yourself with the content. We recommend that you watch the entire [Structure of Government](#) training. Once you are familiar with it, you can modify the content and length to suit your audience, available time, and venue.

Before starting the presentation

We suggest that you have participants complete the following:

- *The Q&A Handout found on page 12 of this guide.* The Q&A Handout will help participants assess their knowledge before and after the training. An answer key for the Q&A is also provided (pp. 15–17).
- *The pre-training survey included in this guide on page 19.* The pre-training survey will provide information about the quality of the session.

If you are not giving the presentation in person, you could distribute these handouts electronically prior to the training (and distribute the answer sheet electronically after the training).

During the presentation

Depending on the length of your presentation, you'll want to decide how to engage participants using the *Q&A Handout*. Below is a summary of two options. These approaches not only re-emphasize key points but also create a more interactive experience.

- *Option 1: Polling the Room*
One approach is to weave the questions throughout the presentation. You can stop after each question and ask the audience to answer it before moving to the next appropriate slide.
- *Option 2: Discussion Activity*
You can save all the answers for a longer discussion at the end of the presentation. This can either be done as a full group or in small groups. (The slides for these questions are currently at the end of the PowerPoint.)

Similarly, depending on the length and format of the presentation, you should determine whether to allow the audience to ask questions during the training or save them until the end. Our sample agenda suggests allowing 10 minutes at the end of the presentation for closing remarks and general questions. However, this time can be adjusted to suit the needs of the presentation setting and your audience.

After the presentation

When the presentation is complete, participants should fill out the post-training survey (pp. 20–21).

Finally, we are interested in your experience using this curriculum. Please let us know if you have any questions or feedback on how to improve these materials at PHLAcademy@changelabsolutions.org.

Training Agenda

PRE-TRAINING SURVEY AND Q&A ACTIVITY

10 MIN*

OBJECTIVES

- Have participants complete the pre-training survey and answer the questions in the Q&A Handout.

RESOURCES

- Pre-training survey (p. 19 of this guide)
- Q&A Handout (p. 12 of this guide)

LEGAL COMPETENCIES FOR PUBLIC HEALTH PRACTITIONERS ADDRESSED

- [Public Health Law Competency Model](#) 1:1, 1:2, and 2:3
-

INTRODUCTION AND PRESENTATION OVERVIEW

5 MIN*

OBJECTIVES

- Describe the goals and road map for the session.
- Provide any additional high-level introductory comments.

RESOURCES

- Slide presentation (slides 1–4)
-

BASIC STRUCTURE AND FUNCTIONS OF GOVERNMENT

15 MIN*

OBJECTIVES

- Explain the source of authority and how it varies among the state, tribal, local, and territorial governments.

RESOURCES

- Slide presentation (slides 5–28)

LEGAL COMPETENCIES FOR PUBLIC HEALTH PRACTITIONERS ADDRESSED

- [Public Health Law Competency Model](#) 1:1 and 2:3

SEPARATION OF POWERS**10 MIN*****OBJECTIVES**

- Discuss the roles and responsibilities of the three different branches of government within each level (federal, state, and local).
- Describe the system of checks and balances among the various branches of government.

RESOURCES

- Slide presentation (slides 29–49)

LEGAL COMPETENCIES FOR PUBLIC HEALTH PRACTITIONERS ADDRESSED

- [Public Health Law Competency Model](#) 1:1 and 2:3

EXPRESSION OF POWER: TYPES OF LAWS**5 MIN*****OBJECTIVES**

- Identify and describe the types of laws the different levels of government are able to enact and enforce.

RESOURCES

- Slide presentation (slides 50–62)

LEGAL COMPETENCIES FOR PUBLIC HEALTH PRACTITIONERS ADDRESSED

- [Public Health Law Competency Model](#) 1:2, 2:2, and 2:3

GOVERNMENT PUBLIC HEALTH AUTHORITY**10 MIN*****OBJECTIVES**

- Explain how the various levels of government use their powers to ensure the public's health.

RESOURCES

- Slide presentation (slides 63–74)

LEGAL COMPETENCIES FOR PUBLIC HEALTH PRACTITIONERS ADDRESSED

- [Public Health Law Competency Model](#) 1:2, 2:1, and 2:2

INTERGOVERNMENTAL COLLABORATION & IMPROVED HEALTH 5 MIN***OBJECTIVES**

- Provide examples of how different levels of government can work together to promote and protect the public's health.

RESOURCES

- Slide presentation (slides 75–80)

LEGAL COMPETENCIES FOR PUBLIC HEALTH PRACTITIONERS ADDRESSED

- [Public Health Law Competency Model](#) 2:1 and 2:2

OPTIONAL: Q&A DISCUSSION

20 MIN*

OBJECTIVES

- Have participants discuss as a full group or in small groups answers to the questions in the Q&A Handout.
- Provide answers to Q&A Handout.

RESOURCES

- Q&A answer key (pp. 15–17 of this guide)
- Slides 84–103

LEGAL COMPETENCIES FOR PUBLIC HEALTH PRACTITIONERS ADDRESSED

- [Public Health Law Competency Model](#) 1:1, 1:2, and 2:3

WRAP-UP AND QUESTIONS

10 MIN*

OBJECTIVES

- Allow participants to ask general questions.
- Provide concluding remarks and have participants complete the post-training survey.

RESOURCES

- Slide presentation (slides 81–83)
- Post-training survey (pp. 20–21 of this guide)

* All times are approximate; total training time is about 90 minutes.

Additional Resources

As you prepare to tailor content from [Structure of Government](#), we recommend familiarizing yourself with the following list of resources. These resources informed the development of the content found in this training. They can provide additional background information as you prepare to tailor content for your presentation. Finally, as questions arise from the audience during and after the training, you can refer audience members to these resources for additional information.

ORGANIZATIONS

CDC, Public Health Law Program

www.cdc.gov/phlp

The Public Health Law Program (PHLP) – part of the CDC’s Center for State, Tribal, Local and Territorial Support – works to improve the health of the public by developing law-related tools and providing legal technical assistance to public health practitioners and policymakers.

ChangeLab Solutions

www.changelabsolutions.org

ChangeLab Solutions creates healthier communities for all through equitable laws and policies. Its solutions address all aspects of a just, vital, and thriving community like food, housing, child care, schools, transportation, public safety, jobs, and the environment. ChangeLab provides technical assistance and resources on various subtopics discussed in this training, such as:

- [Preemption](#)
- [Tobacco control](#)
- [Healthy housing](#)
- [Menu labeling](#)
- [A Legal Primer for the Obesity Prevention Movement](#)

The Network for Public Health Law

www.networkforphl.org

A national organization with five regional centers, the Network for Public Health Law provides legal technical assistance, resources, and opportunities to build connections for local, tribal, state, and federal officials; public health practitioners; attorneys; and advocates.

BACKGROUND READING AND REFERENCES

For facilitators who seek additional information or wish to learn more about the legal issues discussed in this training, see the list of resources below.

- Association of State and Territorial Health Officials. Profile of State and Territorial Public Health. 2019. www.astho.org/profile.
- Association of State and Territorial Health Officials and NORC at the University of Chicago. State Public Health Agency Classification: Understanding the Relationship Between State and Local Public Health. 2012. www.astho.org/Research/Major-Publications/ASTHO-NORC-Governance-Classification-Report.
- Centers for Disease Control and Prevention. Best Practices for Tobacco Control Programs. 2014. www.cdc.gov/tobacco/stateandcommunity/best_practices/pdfs/2014/comprehensive.pdf.
- Environmental Protection Agency. The Basics of the Regulatory Process: Laws & Regulations. 2019. www.epa.gov/laws-regulations/basics-regulatory-process.
- National Conference of State Legislatures. Separation of Powers – An Overview. www.ncsl.org/research/about-state-legislatures/separation-of-powers-an-overview.aspx.
- National League of Cities. Local US Governments. www.nlc.org/local-us-governments
- USA.gov. Branches of the U.S. Government. 2019. www.usa.gov/branches-of-government.

RELEVANT CASES

Gibbons v. Ogden, 22 U.S. 1 (1824)

SUMMARY: At issue in this case was a New York State law that gave certain individuals the exclusive right to operate steamboats on waters within the state. Thomas Gibbons, a steamboat owner conducting business between New York and New Jersey, challenged this law when the state of New York granted Aaron Ogden (another steamboat owner) a monopoly license to operate steamboats on New York State waters. Gibbons claimed that the power to regulate interstate commerce was reserved to Congress and, therefore, that the New York State law in question was void.

The Supreme Court sided with Gibbons and cited the Supremacy Clause, finding that Congress's power to regulate interstate commerce under the Commerce Clause superseded the New York State law.

TAKEAWAY: This was a landmark Supreme Court case that expanded Congress's authority to regulate any type of commerce between states. The expanded definition of commerce is the basis for many of the federal government's public health powers.

Sabri v. United States, 541 U.S. 600 (2004)

SUMMARY: Basim Omar Sabri, a real estate developer, offered multiple bribes to a Minneapolis City Council member. Sabri was charged with bribery under federal law. He argued that the statute under which he was charged was unconstitutional because it failed to require proof that there was a connection between the federal funds received and the alleged bribe.

The Supreme Court held that the particular federal bribery statute was a valid exercise of power under both the Spending Clause (authorizing Congress to spend moneys to promote the general welfare) and the Necessary and Proper Clause (authorizing Congress to ensure that taxpayer dollars are spent for the general welfare), even if there is no proof that the attempted bribe affected federal funds.

TAKEAWAY: This case highlights implied powers of Congress. Implied powers are those that are not expressly listed in the Constitution, but are deemed necessary to carry out those enumerated powers. In this case, the Supreme Court found that even though the Constitution does not expressly say anything about bribery, Congress still had the power to prohibit bribery. As the Court explained, the Constitution authorizes Congress to spend money for the general welfare (under the Spending Clause) and to take any reasonable steps necessary to ensure such money is, in fact, spent for the general welfare (under the Necessary and Proper Clause) – such as prohibiting bribery.

Michigan v. Environmental Protection Agency, 135 S.Ct. 2699 (2015)

SUMMARY: Under the Clean Air Act, the Environmental Protection Agency (EPA) may regulate emissions of hazardous air pollutants by power plants as long as the regulations are “appropriate and necessary.” At issue in this case was whether the EPA could issue these regulations without taking into account the costs that would be incurred by power plants.

The Supreme Court found that the cost consideration was a necessary factor in determining whether the regulation was appropriate and necessary. Therefore, the EPA’s failure to consider cost was unreasonable and unlawful.

TAKEAWAY: This case is an example of how the judicial branch has the ability to “check” the power of an executive agency. Under the Clean Air Act, Congress delegated power to an executive agency (the EPA) to regulate hazardous air pollutants. However, this power is not unlimited, and this case shows how the judiciary “checks” the power of the EPA. This is one example of the separation of powers, or checks and balances.

Welcome Activity - The Q&A Handout

Expected time: 30 minutes total (approximately 10 minutes before the presentation and 20 minutes during or after the presentation)

INSTRUCTIONS FOR FACILITATORS

Key points:

- Welcome the participants and introduce yourself.
- Explain housekeeping items, such as estimated length of the training, break times, and restroom locations.
- Ask participants to complete the **Q&A Handout**. Remind participants that they are not expected to know all of the answers to all of the questions. Encourage them to do their best and explain that some of the answers to the questions will be addressed throughout the presentation.
- Where applicable, the answer key (starting on p. 10) references the slide(s) in the presentation where each of these concepts is expressly addressed or implied.
- Review answers to the questions in the **Q&A Handout** by either:
 - Weaving the questions throughout the presentation and stopping after each question to ask the audience for the answer before moving to the next slide.
 - At the end of the presentation, having participants discuss the questions as a group or in small groups.

Structure of Government: Exploring the Fabric and Framework of Public Health Powers

Q&A HANDOUT

Instructions: Individually, circle the correct choice for each of the following statements.

Basic Structure and Functions of Government

1. **TRUE or FALSE:** All powers listed (or enumerated) in the Constitution are exclusive to the federal government.
2. **MULTIPLE CHOICE:** Which of the following is an example of a state's police power?
 - A. Power held by state police officers to stop a driver who is speeding
 - B. A state law requiring all passengers in a car to wear seatbelts
 - C. Power to raise state income taxes
 - D. Choices A) and B)
3. **TRUE or FALSE:** A local government has all powers that are not expressly granted to the state in the state's constitution.

Separation of Powers

4. **MULTIPLE CHOICE:** When it comes to ensuring safe drinking water, which of the following illustrates Congress's responsibility?
 - A. Create a law regulating safe drinking water
 - B. Oversee the agency that enforces the safe drinking water law
 - C. Interpret a provision of the safe drinking water law
 - D. None of the above
5. **MULTIPLE CHOICE:** Which of the following is an example of checks and balances?
 - A. A court declaring an executive action unconstitutional
 - B. The president vetoing a piece of legislation
 - C. Congress's impeachment power
 - D. Choices A) and C) only
 - E. Choices A), B), and C)

Expression of Power: Types of Laws

6. **TRUE or FALSE:** Only statutes and judicial opinions have the effect of law. Regulations do not.
7. **TRUE or FALSE:** Only the public can stop a regulation from becoming law.

Governmental Public Health Authority

8. **TRUE or FALSE:** The US government can quarantine individuals suspected of carrying communicable diseases across state lines or international borders.

Intergovernmental Collaboration and Improved Health

9. **TRUE or FALSE:** The authority of local boards of health is the same in every state.
10. **MULTIPLE CHOICE:** Which level of government is responsible for controlling infectious disease?
- A. Federal
 - B. State
 - C. Local
 - D. Choices A) and B) only
 - E. Choices A), B), and C)

Structure of Government: Exploring the Fabric and Framework of Public Health Powers

Q&A HANDOUT

ANSWER KEY

Basic Structure and Functions of Government

1. **TRUE or FALSE:** *All powers listed (or enumerated) in the Constitution are exclusive to the federal government.*

False. Although some of the enumerated powers (the federal powers found in the text of the Constitution) are exclusive to the federal government (meaning only the federal government has the authority to exercise them), other enumerated powers are shared with the states (like the collection of taxes).

➤ This content is discussed on slides 7–8 and 13.

2. **MULTIPLE CHOICE:** Which of the following is an example of a state's police power?

- A. Power held by state police officers to stop a driver who is speeding
- B. A state law requiring all passengers in a car to wear seatbelts
- C. Power to raise state income taxes
- D. Choices A) and B)

D) Choices A) and B). A state's police power encompasses both the power held by law enforcement officers and the authority to promote the public's health and safety.

➤ This content is discussed on slide 17.

3. **TRUE or FALSE:** A local government has all powers that are not expressly granted to the state in the state's constitution.

False. The power of local governments is delegated to them by the state. Some states give local governments broad authority, some greatly limit local authority, and others limit local authority to a moderate degree.

➤ This content is discussed on slides 20–23.

Separation of Powers

4. **MULTIPLE CHOICE:** When it comes to ensuring safe drinking water, which of the following illustrates Congress's responsibility?

- A. Create a law regulating safe drinking water
- B. Oversee the agency that enforces the safe drinking water law
- C. Interpret a provision of the safe drinking water law
- D. None of the above

A. Create a law regulating safe drinking water. Congress, which is part of the legislative branch, is responsible for creating laws. At the federal level, the executive branch is responsible for enforcing laws created by Congress (answer choice B) and the judicial branch is responsible for interpreting those laws (answer choice C).

➤ This content is discussed on slides 31–33 and 35.

5. **MULTIPLE CHOICE:** Which of the following is an example of checks and balances?

- A. A court declaring an executive action unconstitutional
- B. The president vetoing a piece of legislation
- C. Congress's impeachment power
- D. Choices A) and C) only
- E. Choices A), B), and C)

E) Choices A), B), and C) are all examples of the ability of one branch of the federal government to check the power of another branch. A court declaring an executive action unconstitutional is an example of a check on the power of the executive branch by the judicial branch. The president vetoing a piece of legislation is an example of the president's ability to check the power of the legislative branch. Congress's impeachment power is an example of how the legislature can check the power of the executive branch.

➤ This content is discussed on slides 34–40.

Expression of Power: Types of Laws

6. **TRUE or FALSE:** Only statutes and judicial opinions have the effect of law. Regulations do not.

False. Statutes and judicial opinions have the effect of law, as do regulations published by federal agencies, executive orders signed by the president, and administrative law decisions.

➤ This content is discussed on slides 52 and 56.

7. **TRUE or FALSE:** Only the public can stop a regulation from becoming law.

False. The public has the opportunity to comment on regulations (which could, but will not necessarily, eventually prevent a regulation from becoming law), but Congress can also prevent a regulation from becoming law.

➤ This content is discussed on slide 55.

Governmental Public Health Authority

8. **TRUE or FALSE:** The US government can quarantine individuals suspected of carrying communicable diseases across state lines or international borders.

True. The government may quarantine individuals suspected of carrying communicable diseases across state lines or international borders in order to protect the nation's security. However, due process requires that quarantine and isolation orders be reasonable and use the least restrictive means possible.

➤ This content is discussed on slide 64.

➤ For an additional resource, see Public Health Law: Past and Present, PHL101 training (answer to question 5 of Facilitator's Guide).

Intergovernmental Collaboration and Improved Health

9. **TRUE or FALSE:** The authority of local boards of health is the same in every state.

False. The authority of health departments and boards of health differs depending on state law.

➤ This content is discussed on slide 73.

10. **MULTIPLE CHOICE:** Which level of government is responsible for controlling infectious disease?

A. Federal

B. State

C. Local

D. Choices A) and B) only

E. Choices A), B), and C)

E) Choices A), B), and C). All levels of government have roles in protecting the public from infectious disease outbreaks. For example, the federal government may quarantine individuals suspected of carrying communicable diseases across international borders, state government agencies are responsible for disease surveillance, and local governments can establish sanitary codes.

➤ This content is discussed on slides 76–78.

Pre- and Post-Training Surveys

INSTRUCTIONS FOR FACILITATORS

Key points:

- Below are two sample surveys (pre- and post-training evaluation tools*) that you can use to gather feedback on the content and quality of the presentation.
- Depending on the format of your presentation (in person or online), you may provide hard copies at the presentation or make these surveys available electronically.
- Please update the pre- and post-training surveys with the training date and facilitator's organization.

* Please note before asking participants to complete the pre- and post-training surveys, the Paperwork Reduction Act has specific requirements for federal agencies with regard to the collection and housing of data and may require permission from the Office of Management and Budget before collecting information from 10 or more members of the public.

Structure of Government: Exploring the Fabric and Framework of Public Health Powers

PRE-TRAINING SURVEY

Thank you for completing the following survey!

Learning objectives:

Please indicate your current confidence level for each of the following learning objectives.

1. I can describe how a balance of powers is maintained among the three branches of government.
 - a. Not confident
 - b. Somewhat confident
 - c. Confident
 - d. Very confident

2. I can identify the various types of laws that different branches of government can create.
 - a. Not confident
 - b. Somewhat confident
 - c. Confident
 - d. Very confident

3. I can explain why intergovernmental collaboration is important for achieving improved health outcomes.
 - a. Not confident
 - b. Somewhat confident
 - c. Confident
 - d. Very confident

Additional feedback:

4. What questions do you have about the structure of government?

Thank you for your feedback!

Structure of Government: Exploring the Fabric and Framework of Public Health Powers

POST-TRAINING SURVEY

Thank you for completing the following survey!

Learning objectives:

As a result of attending the session, please indicate your current confidence level for each of the following course learning objectives:

1. I can describe how a balance of powers is maintained among the three branches of government.
 - a. Not confident
 - b. Somewhat confident
 - c. Confident
 - d. Very confident
2. I can identify the various types of laws that different branches of government can create.
 - a. Not confident
 - b. Somewhat confident
 - c. Confident
 - d. Very confident
3. I can explain why intergovernmental collaboration is important for achieving improved health outcomes.
 - a. Not confident
 - b. Somewhat confident
 - c. Confident
 - d. Very confident

Overall impression:

Please rate your level of agreement with the following statements regarding the session Structure of Government.

4. How would you rate the overall session?
 - a. Poor
 - b. Fair
 - c. Good
 - d. Very good
 - e. Excellent
5. I would recommend this session to others.
 - a. Disagree
 - b. Somewhat disagree
 - c. Neither agree nor disagree
 - d. Somewhat agree
 - e. Agree

Additional feedback:

6. What was the most valuable part of the session?

7. How could this session be improved?

8. What topics would you like to see addressed in future sessions on public health law?

Thank you for your feedback!