

Statement of Qualifications

to provide legal & policy technical assistance for

U.S. Department of Health and Human Services
Center for Disease Control and Prevention
American Recovery and Reinvestment Act of 2009
Communities Putting Prevention to Work

FOA: CDC-RFA-DP09-912ARRA09

State Supplemental Funding for Healthy Communities, Tobacco Control, Diabetes
Prevention and Control, and Behavioral Risk Factor Surveillance System

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“We will not reverse the epidemics of tobacco addiction, obesity, and diabetes without changing the legal and policy framework supporting them. Public Health Law & Policy is leading the nation in shaping these changes. I know of no other group with such depth of expertise and breadth of engagement.”

-- *Richard Joseph Jackson, MD, MPH*
University of California at Los Angeles School of Public Health
Director emeritus, CDC National Center for Environmental Health
Former California State Public Health Officer

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Who We Are and What We Do

Public Health Law & Policy (PHLP) improves community health outcomes by building capacity of public health leaders to use sophisticated legal and policy tools in their everyday practice. We pioneer innovative ways to leverage law and policy to improve public health and have a proven track record of delivering effective tools and solutions throughout the nation.

PHLP's staff of attorneys, urban planners, and policy analysts partner with local, state, and national leaders. Drawing upon an extensive network of respected scholars and public health scientists, PHLP identifies where and how law and policy can influence public health outcomes. We work with public health departments, government attorneys, community leaders, and others to develop practical tools such as model ordinances and policies, fact sheets and toolkits, and customized trainings and technical assistance. Finally, we capture and share the learning that comes only through the on-the-ground process of implementing new strategies, and integrate these findings into future solutions and support.

Our staff specializes in researching and developing strategic solutions to public health concerns, including:

- How school districts can open their facilities to the community for recreational use after hours while still protecting themselves against liability
- How public health departments can influence city planning and business development efforts to make healthy foods and physical activity more accessible (for example, by redesigning neighborhoods, attracting supermarkets, or improving corner store offerings)
- How governments can protect tenants from secondhand smoke drifting into their apartments
- How states and localities can implement taxes and fees on tobacco, soda, and other unhealthy foods to discourage consumption while raising public funds for prevention
- How communities can create a system for licensing tobacco retailers to deter illegal sales to minors
- How localities can proactively address the public health challenges associated with global issues such as climate change and pandemic disease

To Learn More

Public Health Law & Policy projects include:

- Technical Assistance Legal Center (TALC)
- Planning for Healthy Places
- National Policy & Legal Analysis Network to Prevent Childhood Obesity (NPLAN)

Visit www.phlpnet.org to download any of the dozens of model policies, fact sheets, and other legal and policy tools from our publications catalog. PHLP can work with your community to customize and use these materials most effectively.

Working with Communities Throughout the Stages of Policy Development

PHLP partners with government agencies and community-based organizations throughout the country on policies designed to achieve local public health goals. We offer tailored services at all stages of the cycle of law and policy development.

1. Convene Interdisciplinary Experts

We bring together professionals from diverse disciplines and apply their combined expertise to public health problems.

PHLP regularly organizes and facilitates regional, statewide, and national workshops convening public health department staff and urban planners—often the first meeting of its kind for a community—to build a shared local understanding of health and planning, and to generate momentum for incorporating health considerations into planning decisions.

2. Develop Effective Strategies

Working with experts and stakeholders, we conceptualize innovative yet practical strategies for tackling specific public health problems. Analyzing available scientific research and emerging industry practices, we conduct extensive legal research to devise model legal and policy approaches that promise to deliver real results.

Despite state laws, the youth tobacco purchase rate remains very high in too many communities. To address this persistent problem, PHLP developed a model ordinance authorizing cities and counties to license tobacco retailers, giving them the ability to suspend the license if a retailer is caught selling to a minor—a strategy that has been shown to reduce the youth purchase rate by as much as 70 percent.

3. Identify and Analyze Legal Questions

When tackling an emerging public health issue, we identify potential legal stumbling blocks and analyze the applicable law, often in consultation with nationally renowned scholars and local legal practitioners. Confident that the models we develop are legally sound, we provide states and localities with a well-grounded assessment of legal risks, especially when they want to try a bold or new approach.

When we began exploring the approach of banning fast food restaurants near schools to protect children's health, we thoroughly researched potential constitutional hurdles and concluded that municipalities could avoid many legal challenges by regulating new fast food restaurants, rather than attempting to eliminate those that were already there.

4. Assess the Legal/Policy Landscape

We analyze and assess laws and policies from across the country in order to understand different approaches, compile promising practices, identify gaps in existing laws and policies, and think creatively about how to improve the landscape.

PHLP developed a user-friendly chart comparing a number of state and local menu labeling laws and assessed emerging research about the impact of such laws. Our lawyers ultimately drew from this information when developing a model menu labeling ordinance.

5. Craft Model Legislation, Policies, and Agreements

To help state and local governments move a public health agenda forward, we develop model language that can be adapted to suit local needs and political will. We also provide in-depth legal and policy analyses to explain the rigorous research undergirding our models.

PHLP drafted a popular set of resources to advance local “joint use” agreements making public school facilities available to the community for recreational use after school hours. The package includes four model agreements providing community members with different levels of access to school facilities, and a 50-state survey of applicable liability laws.

6. Demystify Law and Policy with User-Friendly Materials

Breaking down complex legal and policy issues into plain language, our how-to guides, fact sheets, checklists, glossaries, and other accessible resources empower professionals in any field to engage fully in the policy development process.

PHLP developed a toolkit for public health professionals and urban planners in California on how to work together to create healthy, sustainable communities, which has spurred a sea change in land use planning practice statewide. Dozens of communities have begun incorporating specific health policy goals and objectives—including access to healthy food and opportunities for physical activity—into their land use plans for the first time. The toolkit includes model general/comprehensive plan language and provides information on building relationships, assessing existing conditions, and creating and ultimately implementing health-promoting policies.

We have developed numerous fact sheets on making smokefree housing policies work including using disability laws to protect tenants from drifting secondhand smoke, creating smokefree condominiums, and describing legal options for tenants suffering from drifting secondhand smoke. Many of these tools are also available in Spanish. Through these tools and our model ordinance, PHLP strives to give both tenants and landlords a better understanding of the full range of legal and policy options available.

7. Provide Trainings and Technical Assistance

We collaborate directly with agency staff, community leaders, and policymakers through workshops and one-on-one assistance at all phases of policy development, enactment, and implementation, working to ensure that the ultimate policy reflects and achieves its stated intent and promotes public health goals.

When the Chicago Parks Department wanted to negotiate a new beverage vending agreement to promote healthier choices, we consulted with them on how our model healthy beverage vending agreement could meet local needs. Our one-on-one technical assistance allowed the Department to find ways to generate additional revenue while asserting control over the surface of the vending machines to send health-positive messages.

Nutrition and Physical Activity

PHLP's lawyers, urban planners, and policy experts work jointly to develop and implement an array of tools that support healthy nutrition and physical activity. As the following table illustrates, our areas of expertise include all five of the evidence-based MAPPS interventions called for by the CDC. We can partner with you to develop, adopt, and implement these policy strategies.

MAPPS Intervention	We Can Help You:
Media	
	<p>Develop legislation that:</p> <ul style="list-style-type: none"> • Restricts junk food marketing without violating the First Amendment. PHLP has deep expertise in the First Amendment, marketing restrictions, and traditional and digital marketing • Requires that fast food restaurants distribute toys only with meals that meet minimum nutritional standards <p>Develop school policies that restrict advertising of unhealthy products in the school environment</p>
Access	
	<p>Update local land use plans to establish goals and policies that:</p> <ul style="list-style-type: none"> • Increase residents' access to healthy food • Create opportunities for community members to engage in regular physical activity <p>Create zoning ordinances that promote:</p> <ul style="list-style-type: none"> • Lively, dense, mixed-use destinations in your community • Walking and cycling for transportation and leisure • The sale of healthy foods in all neighborhoods by traditional retailers, farmers' markets, and mobile vendors • Community gardens and farmers' markets • "Healthy zones" (restricting fast food restaurants) around schools <p>Develop legislation requiring that sidewalks, bicycle lanes, and other attributes of complete streets be provided in new streets and street reconstruction</p> <p>Use economic development and redevelopment tools to</p> <ul style="list-style-type: none"> • Prioritize the attraction of a new grocery store • Create incentives to increase healthy food options in corner stores and restaurants <p>Partner with your school district and school wellness councils to</p> <ul style="list-style-type: none"> • Write joint use agreements that open up school facilities to local residents for use after hours and on the weekends • Site new schools in walkable and bikeable locations and preserve neighborhood schools

	<ul style="list-style-type: none"> • Create safer routes to schools by improving crosswalks and bicycle lanes • Ensure that school garden and other local produce can be used in school cafeterias • Explore alternative funding sources to replace junk food marketing in schools • Limit unhealthy competitive food offerings <p>Draft a resolution that recommends:</p> <ul style="list-style-type: none"> • Physical activity standards for childcare centers • Obesity prevention policies in government workplaces <p>Partner with businesses to ensure that EBT is accepted at grocery stores</p>
Point of Purchase/ Promotion	
	<p>Develop legislation that requires:</p> <ul style="list-style-type: none"> • Grocery store checkout aisles free of junk food • Calorie and nutrition labeling on menus and menu boards <p>Partner with businesses to certify healthy businesses such as restaurants and bicycle shops</p>
Price	
	<p>Implement fees, taxes and incentives that:</p> <ul style="list-style-type: none"> • Discourage consumption of soda or other unhealthy products • Subsidize healthy choices in vending machines or other environments • Encourage active transport
Social Support & Services	
	<p>Draft a resolution that recommends obesity prevention policies in government workplaces</p> <p>Develop legislation that encourages community and school gardens, fostering nutrition education and healthy food preparation skills</p> <p>Partner with school districts to support Safe Routes to School programs</p>

PHLP's Expertise in
Tobacco Control

PHLP staff attorneys have partnered with health department staff on a range of tobacco control policy strategies for more than a decade, and we have developed dozens of model policies and other tools that support the following evidence-based MAPPs interventions called for by the CDC. We can partner with you to develop, adopt, and implement these policy strategies.

MAPPs Intervention	We Can Help You:
Media	
	<p>Develop legislation that regulates tobacco advertising, consistent with legal constraints such as the First Amendment, and federal preemption¹</p> <p>Develop and implement voluntary policies to limit or prohibit tobacco brand sponsorship of events, on government property, at universities, and in fraternities and sororities</p>
Access	
	<p>Develop legislation or voluntary policies to create smoke-free places:</p> <ul style="list-style-type: none"> • In indoor and outdoor worksites and school campuses • At recreational areas, outdoor dining venues, and other outdoor areas • In multi-unit housing developments (apartments and condominiums) • At events such as farmers' markets, rodeos, and sporting events <p>Develop local legislation to:</p> <ul style="list-style-type: none"> • License tobacco retailers to deter illegal sales to minors • Prohibit the self-service display of tobacco products <p>Amend zoning laws to control the location, density, and proximity of tobacco retailers</p> <p>Evaluate and enforce existing laws regarding sales to minors, self-service displays of tobacco products, and secondhand smoke</p>

¹ The recent passage of the groundbreaking federal Family Smoking Prevention and Tobacco Control Act gave state and local governments expanded authority to regulate the advertising, promotion, and distribution of tobacco products. PHLP, along with our partners and collaborators, is currently researching the legal implications of new policy options in these areas. We plan to create additional model policies in the upcoming year, consistent with the FDA law and constitutional restrictions.

Point of Purchase/ Promotion	
	<p>Develop legislation that restricts point of purchase advertising and displays, consistent with the First Amendment</p> <p>Develop and enforce laws that require warning signs at the point of purchase</p> <p>Develop new legal strategies to reduce youth exposure to tobacco products, such as requiring that such products be stored in opaque containers or otherwise out of sight</p>
Price	
	<p>Develop legislation that prohibits the distribution of free or low cost tobacco products (“samples”), and coupons for free or low cost tobacco products</p> <p>Research and develop legal strategies to counter retail price manipulation, including minimum price laws and restrictions on multi-pack offers and other retail value added schemes</p>
Social Support & Services	
	<p>Develop materials and trainings for service providers to help low-income tenants resolve problems associated with secondhand smoke exposure at home</p>

Excellence in Many Fields

PHLP has earned a national reputation for producing work that is both accessible and of the highest caliber. Our team is smart, friendly, and practical, and we are passionate about our goal of creating healthier communities through policy change.

Our staff of attorneys, urban planners, and policy experts herald from some of the top universities in the country, including Brown, Columbia, Harvard, Howard, M.I.T., Notre Dame, Stanford, Yale, and the University of California at Berkeley. We have published widely in peer-reviewed journals including the *American Journal of Public Health*, *Tobacco Control*, the *Journal of Law, Medicine & Ethics*, and *The Milbank Quarterly*. We regularly present at prestigious conferences hosted by a range of associations and government organizations, including the American Planning Association, the American Public Health Association, the National Association of County and City Health Officials, the National School Boards Association, the Centers for Disease Control, and the National Conference on Tobacco or Health. Moreover, our staff has been invited to present before influential bodies such as the Institutes of Medicine, the United States Conference of Mayors, the Congressional Black Caucus, and the National Association of Latino Elected and Appointed Officials.

Our Lawyers

Our attorneys are guided by the highest standards of legal excellence, professionalism, and commitment. Several of our attorneys have joint degrees in public health; others have worked within state agencies or as city attorneys.

Our Urban Planners

Our urban planners are committed to advancing health through the principles of good governance and excellence in community design and planning. Our backgrounds in academia, the private sector, and nonprofits ground our work in an understanding of how to succeed in interdisciplinary local policy efforts.

Our Policy Experts

Our policy experts contribute critical analysis to PHLP's work, driven by a desire for practical, evidence-based policy with a focus on social justice and the elimination of health disparities.

Partial List of PHLP Major Collaborators and Partners

To supplement our in-house expertise and field experience, PHLP has partnered with hundreds of agencies and academic experts over the past decade.

Local, State, and Federal Government Agencies and Associations

- California Department of Public Health
- California Redevelopment Association
- County Tobacco Control Programs
- The Centers for Disease Control and Prevention
- International City/County Management Association
- Leadership for Healthy Communities
- Minnesota Department of Health
- National Association of Latino Elected Officials
- National Governors' Association
- Office of the California Attorney General
- Office of the City Attorney, City of Los Angeles
- Office of the City Attorney, City of San Diego
- Texas Department of State Health Services
- Transit Authority of River City (Louisville, KY)
- United States Conference of Mayors

Academic Scholars (affiliated with the universities listed)

- City College of New York
- City University of New York (Lehman College)
- George Washington University
- Georgetown Law School
- Harvard School of Public Health
- Johns Hopkins University (Center for the Law and the Public's Health)
- North Carolina State University
- Northeastern University (Public Health Advocacy Institute)
- Samford University Cumberland School of Law
- University of Arizona
- University of California at Berkeley
- University of California at Berkeley School of Law
- University of California at Los Angeles
- University of Maryland
- University of Pennsylvania Law School
- University of Texas at Austin
- University of Texas School of Law
- Wayne State University
- Willamette University College of Law
- William Mitchell College of Law
- Yale University (Rudd Center for Food Policy and Obesity)

Other Partners (grouped by issue)

Schools

- California School Boards Association
- Early Childhood and Family Learning Foundation, New Orleans, LA
- National Education Association
- National Parent-Teacher Association
- National School Boards Association
- Safe Routes to School National Partnership

Food Systems and Physical Activity

- Active Living Research
- California Center for Physical Activity
- California Center for Public Health Advocacy
- California Convergence
- Community Food Security Coalition
- Congressional Black Caucus Health Brain Trust
- Healthy Corner Stores Network
- Healthy Eating Research
- The Institute for Agriculture and Trade Policy

- The Joint Center for Political and Economic Studies
- Robert Wood Johnson Foundation Center to Prevent Childhood Obesity

- Roots of Change
- The Strategic Alliance for Healthy Food and Activity Environments

Marketing

- Berkeley Media Studies Group
- Center for Science in the Public Interest

- Center for Digital Democracy
- Children Now!

Built Environment

- American Planning Association
- Complete Streets Coalition
- Consortium to Lower Obesity in Chicago Children
- Institute for Local Government
- Local Government Commission

- Local Initiatives Support Corporation
- National Center for Smart Growth
- New Partners for Smart Growth
- The City Project
- Urban Land Institute

Tobacco

- American Cancer Society
- American Heart Association
- American Lung Association
- Americans for Nonsmokers' Rights
- California's Clean Air Project

- The Center for Tobacco Policy & Organizing
- San Francisco African American Tobacco-Free Project
- Tobacco Control Legal Consortium

PHLP Executive Leadership

Marice Ashe, JD, MPH

As founder and Executive Director, Marice leads PHLP's strategic planning and national engagement. She pioneers new efforts to improve public health practice and is passionate about integrating sophisticated legal and policy resources throughout public health systems. She has also worked for the University of California Office of the President and the Contra Costa County (California) Health Services Department, as well as consulted with numerous private philanthropies and state and federal health agencies. She is a graduate of the University of Notre Dame, the UC Berkeley School of Public Health, and the UC Berkeley School of Law.

Manel Kappagoda, JD, MPH

Manel Kappagoda serves as Deputy Director of PHLP's National Policy & Legal Analysis Network to Prevent Childhood Obesity. Prior to joining PHLP, she worked at the East Bay Community Law Center (EBCLC), where she served first as a staff attorney in the health law practice and later as director of administration and policy. While at EBCLC she provided legal services to low-income clients living HIV/AIDS in the areas of housing, access to health insurance, disability benefits and estate planning, and she founded AIDS Lanka, a multidisciplinary project that effectively advocated for increased access to HIV medications in Sri Lanka. She also conducted program planning for EBCLC's successful medical-legal partnership with Children's Hospital Oakland. She graduated with high honors from the University of California at Davis, and received her law degree from the University of California Hastings College of the Law and her master's in public health from the University of California at Berkeley School of Public Health.

Robert S. Ogilvie, PhD

Robert Ogilvie directs PHLP's Planning for Healthy Places program. Over the past 15 years he has worked extensively in community development and planning to help improve low- and middle-income neighborhoods. Prior to joining PHLP, he served as a faculty member in the Department of City and Regional Planning at the University of California at Berkeley, as a consultant to city and county governments, nonprofit organizations, and neighborhood activists, and as Director of Volunteers at the Partnership for the Homeless in New York City. He is the author of *Voluntarism, Community Life, and the American Ethic* (Indiana University Press, 2004), an examination of why people volunteer and how local organizations create community. Robert holds a PhD in political science from Columbia University and is a graduate of Queen's University in Kingston, Ontario, and the University of South Carolina.

Leslie Zellers, JD

As the Legal Director of PHLP's Technical Assistance Legal Center (TALC), Leslie oversees all aspects of the program's work. Funded by the California tobacco tax, TALC is a statewide project that provides free technical assistance to communities seeking to reduce exposure to secondhand smoke, regulate the sale of tobacco products, or halt the tobacco sponsorship of events. TALC responds to more than 600 technical assistance requests each year from tobacco control advocates, city and county attorneys, and elected officials. Prior to joining PHLP, she conducted legal and policy work on tobacco prevention and childhood lead poisoning prevention for Contra Costa County and several nonprofit organizations. She has also practiced employment law. She is a Phi Beta Kappa graduate of the University of California at Berkeley, and a graduate of the University of California Hastings College of the Law.

For PHLP's full program staff, visit: www.phlpnet.org/staff