



Health Policy Issue Brief

Drew Koleros, Lisa Schottenfeld, Lello Guluma, Michelle Sou, and So O’Neil

What Do Coalitions Need to Counter Preemption: A Strategic Assessment of Robert Wood Johnson Foundation’s Preemption Work



State lawmakers are increasingly using preemption as a tool to suppress local efforts aimed at promoting health equity

Preemption is a legislative or regulatory action a state or federal government enacts to eliminate or reduce the authority of a lower level of government over a given issue. In recent years, state-level preemption has increasingly been wielded as a tool to suppress local-level policies, many of which aim to promote equity and address the social determinants of health. For example, when local authorities have sought to raise the minimum wage, enact paid leave, prevent employment discrimination, or protect tenant rights, they have often encountered existing preemptive laws prohibiting them from doing so or found that state legislatures immediately preempted local laws that promote equity. This limits communities’ abilities to ensure that all community members have equal opportunity to achieve their highest level of well-being.

How RWJF is addressing preemption by investing in state-level preemption opposition

In response to this growing preemption threat, and as part of its larger commitment to the nation’s well-being, the Robert Wood Johnson Foundation (RWJF) developed an expanded preemption opposition strategy in 2018 focused on state-level preemption. This strategy shifted RWJF’s support from addressing preemption largely through a lens of public health to, instead, a cross-issue lens which includes expanded preemption response.

An equity-first preemption strategy

- Opposes preemption that diminishes governments’ ability to advance health equity; and
- Supports preemption that a) prevents local policies that might create or perpetuate inequities, or b) establishes baseline protections for all citizens upon which lower levels of government can build.

This included a deeper focus on legal research and technical assistance to state-level actors, with specific support to advocates in health and other social policy arenas seeking to address state-level preemption. Most importantly, with RWJF's deepened commitment to a [Culture of Health](#), the strategy adopted a multi-issue, equity-focused approach. An equity-first preemption strategy recognizes how multiple cross-sectoral inequities influence health.

Within this strategy, RWJF funded three national-level organizations (or RWJF-funded national grantees) to provide strategic and financial support to state-level coalitions opposing preemption, help disseminate research on the health equity impact of preemption, and encourage diverse stakeholder groups to participate in advocacy networks and campaigns:

- / The Local Solutions Support Center (LSSC), serving as a national coordinating hub, provided capacity building and financial support to state-level organizations to build coalitions and implement state campaigns. This includes legal research, strategic communications, technical and financial support, and convenings that build broader support.
- / The American Heart Association provided strategic communications and support to build state preemption coalitions and implement state campaigns as well as host convenings to build broader support for preemption work.
- / The National League of Cities provided preemption policy surveillance, which supports state-level efforts to understand ongoing preemption threats and build statewide campaigns.

Understanding progress

RWJF commissioned Mathematica to conduct a strategic assessment of this portfolio after two years of implementation. The goal was to provide RWJF with evidence about the results of its investments to date, provide insight into the field and grantees' roles, and identify promising approaches to promote health equity through policy.

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Specifically, the assessment aimed to do the following:

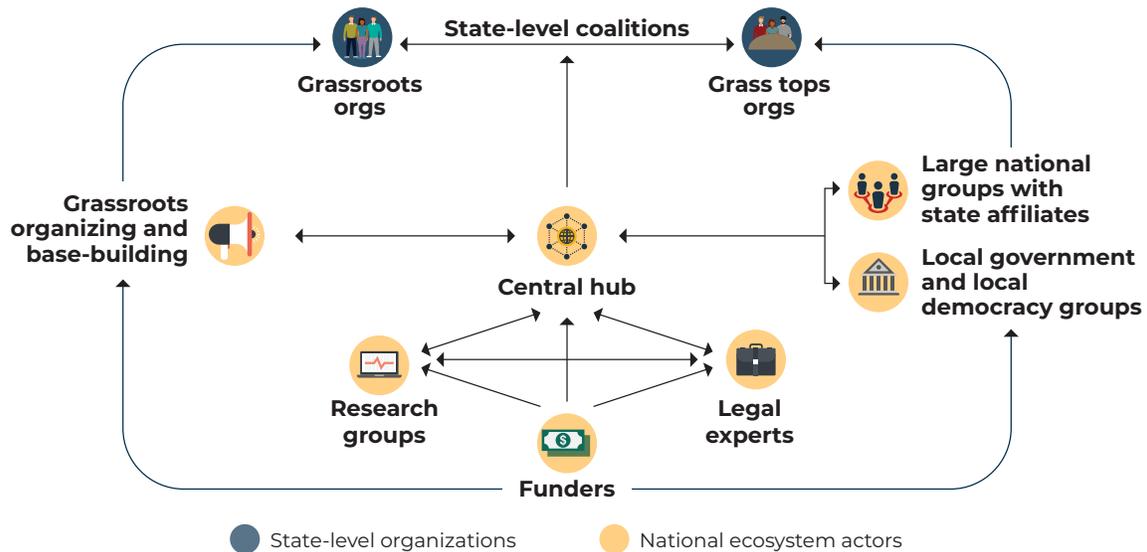
- Describe the role that RWJF-funded grantees have played in supporting national and state-level efforts for preemption opposition.
 - Highlight the strategies and early successes of state-level coalitions working on preemption.
 - Identify future needs and opportunities to strengthen state-level preemption efforts and help coalitions achieve their preemption goals.
 - Identify future opportunities for RWJF to sharpen its investments and further support the work of state-level coalitions through national support organizations.
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To meet these objectives, we conducted nearly 50 interviews with preemption stakeholders at two levels:

National organizations that comprise a national-level preemption ecosystem. We interviewed representatives from seven main types of actor groups at the national level who play a role in supporting state-level preemption opposition: LSSC, large national groups with state affiliates, national networks of grassroots organizing and base-building groups, local government and democracy groups, researchers, legal experts, and funders (Exhibit 1, next page). This included interviews with RWJF staff and national grantees. Overall, these organizations display diversity across issue areas, including workers' rights, the environment, LGBTQ issues, and public health issues such as tobacco control and obesity prevention.

State-level coalitions opposing preemption in nine states. We spoke with organizations leading or belonging to state-level coalitions in nine states selected based on their level of engagement with preemption-related activities. Preemption-first coalitions (that is, those that focus on preemption as their primary issue) had formed in seven of the nine states. These coalitions included diverse members, including health and non-health advocates, grassroots and grassroots organizations, and some organizations with varying political orientations.

Exhibit 1. Preemption stakeholders at the national and state levels



In the remaining two states, we spoke with representatives of coalitions that had fought and won major battles around preemption but were not part of coalitions that focused primarily on preemption as a common issue.

After analyzing our preliminary findings, we held a series of research engagement and structured reflection sessions that more than half of our research participants attended. During these sessions, we presented our preliminary findings and asked participants to reflect on what they agreed with or what themes resonated with them, what they disagreed with, and what was missing from our preliminary findings. We used this feedback to interpret our findings and ground them in the experiences of participants.

Key findings

RWJF-funded grantees played a key role in strengthening and broadening the national preemption ecosystem of actors by investing in coordination efforts among existing ecosystem actors and reaching new groups with preemption messages.

Investments in communications among national-level grantees, led by LSSC, helped strengthen connections among organizations active in

the national preemption ecosystem, leading to increased coordination, information sharing, and networking among groups. Investments also helped broaden the ecosystem by reaching more people with preemption messages through research, convenings, product and resource development, and capacity development. These types of collaborations particularly improved the access of state-level coalitions to important research and legal expertise to help develop and implement strategies. Exhibit 2 (next page) provides a snapshot of some of the areas of collaboration. It is important to note that not all of these instances of coordination came through RWJF funding, demonstrating wider collaboration among these groups.

RWJF-funded grantees provided technical and financial support that assisted cross-issue coalitions to form and begin opposing state-level preemption.

Through RWJF support, the national grantees delivered technical and financial support to organizations involved in preemption coalition efforts. Support fell into two main areas: coalition support, including for coalition formation and strengthening, and direct campaign support, including messaging and communications support, research and policy analysis, and legal technical assistance.

Exhibit 2. Areas of collaboration among RWJF-funded grantees

- Research**  Conducted legal and public health research on the linkages between preemption and health equity

- Convenings**  Held multiple events which brought together researchers, advocates, and other preemption stakeholders

- Product and resource development**  Created messaging and guides and other preemption toolkit resources

- Capacity development**  Organized virtual training sessions for advocates to build capacity for preemption opposition

LSSC was the main technical support provider to coalitions, leveraging its organizational expertise and background in coalition-building, communications, and campaigns. This support contributed to the increased capacity of organizations to build cross-issue preemption coalitions and the increased capacity of these coalitions to develop and implement strategies (Exhibit 3). One of the most frequently cited strengths of LSSC is its unique focus on preemption, which has been useful for coalitions in developing and implementing preemption strategies.

These coalitions reported early progress furthering their goals to defeat or roll back state-level preemption, but they equated their current preemption opposition efforts to a game of whack-a-mole.



We heard about some important early progress state coalitions had made in working toward their goals related to preemption (Exhibit 4, next page). Some coalitions reported success

in broadening and strengthening their coalitions. This included bringing in new organizations, building relationships between organizations, creating coalition structures and processes, and creating a common understanding of preemption and an agenda around preemption. Other coalitions discussed how they successfully defeated proposed preemption bills before they passed, including those related to minimum wage, payday lending, and paid sick leave. Two coalitions—notably, those that were not preemption first coalitions—reported that they had successfully rolled back existing preemption. Coalitions were mostly implementing defensive strategies to block preemption legislation through policy advocacy, though some coordinated inside-outside strategies with grassroots organizations—for example, whereby grassroots organizations mobilized their base to call legislators the same day those legislators were meeting with policy advocates.

Exhibit 3. RWJF-funded grantee support contributed to increased capacity to build preemption coalitions and develop and implement preemption strategies



Exhibit 4. Early progress among state-level coalitions

Coalition strengthening and broadening



- Expanded membership
- Established governance and communication processes
- Established common agenda

Tracking and defeating proposed preemption bills



- Blocked proposed preemption legislation on issues such as minimum wage ordinances and paid sick leave

Preemption repeal



- Repealed preemptive policies related to minimum wage and local property taxes

Nearly half of coalitions engaged in some litigation tactics, mostly in the form of submitting amicus briefs that demonstrated how state-level preemption negatively affects local autonomy.

Despite these policy wins, many coalitions discussed the challenging political context in states in which corporate interests sway over state governments. In this context, coalitions often had to play defense against waves of preemption bills introduced each legislative session. Though coalitions were proud of their achievements fending off these well-funded challenges, they described it as an ongoing game of whack-a-mole, in which all of their energy was invested in tracking and battling these constant threats.

Coalitions wanted to shift from playing defense to taking a more comprehensive, proactive approach to combating preemption.

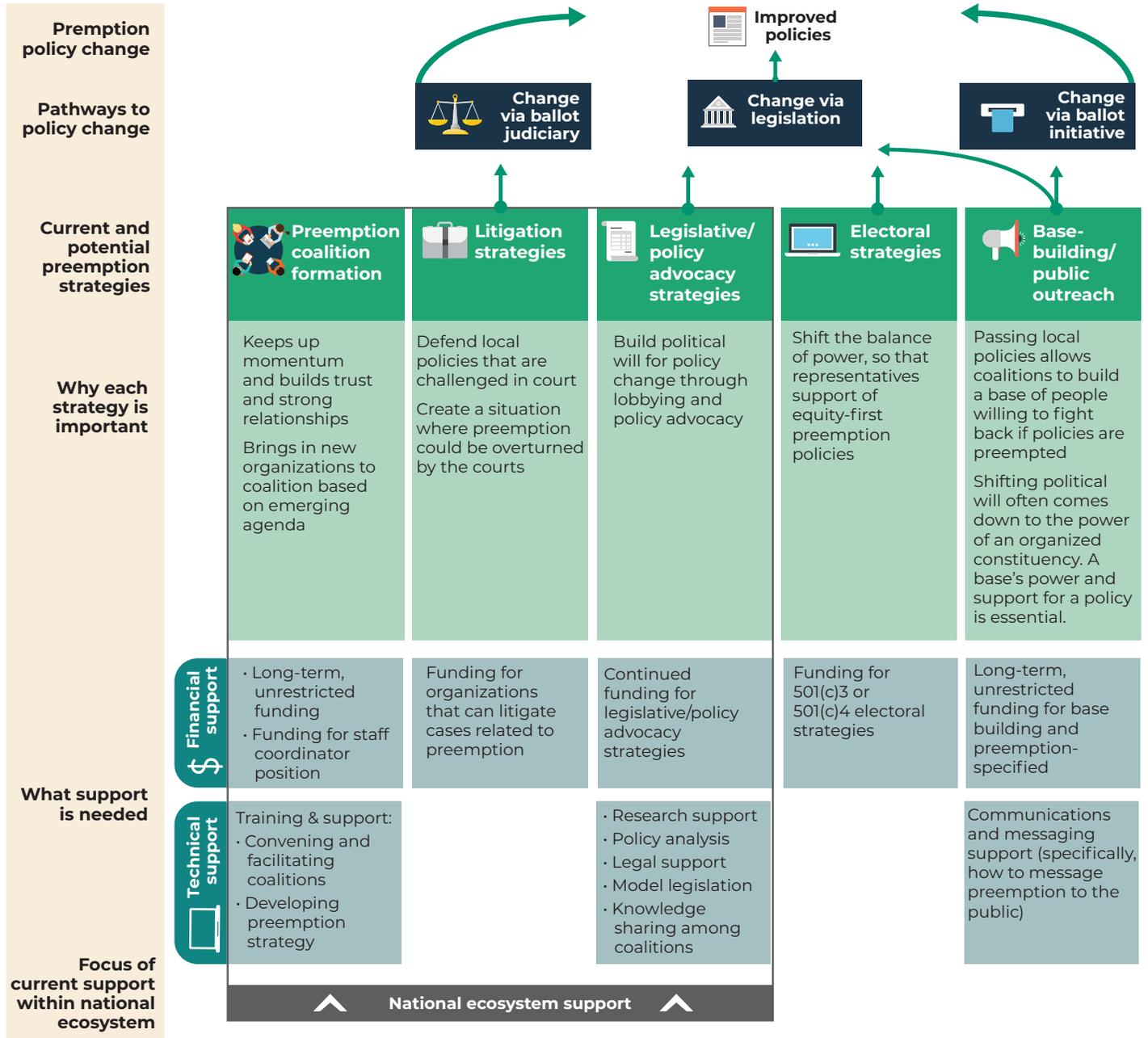
To successfully combat the emerging and increasing preemption threats, repeal existing preemptive laws, and ultimately achieve improvements in health equity, coalitions stated that they would like to shift to a more long-term and proactive strategy. This would require continuing to implement strategies related to coalition formation and strengthening as well as legislative advocacy and litigation, areas for which they already receive technical and financial support from national ecosystem actors.

Many coalitions, however, felt that they also had to invest in public outreach and base-building strategies designed to garner more public support for preemption opposition and shift the overall balance of power. Coalitions described how this could complement their current strategies and contribute to policy change through increased public support for ballot initiatives, along with an increased ability to influence the policy decisions of legislators. Some coalitions also described the need to invest in electoral strategies in order to win support among candidates and increase the numbers of legislators willing to support equity-first preemption policies. Legal strategies might play an additional role.

Coalitions stated that expanding these strategies will require long-term, unrestricted funding not linked to specific campaigns to allow for base-building work and for organizations to increase their capacity to participate actively in preemption coalitions. This kind of support would be particularly important to ensure the active participation of grassroots organizations that are led by and organize the people most impacted by inequities, which are often underfunded for this kind of work. Along with financial support, coalitions reported this would require technical support for implementing these expanded strategies, particularly in terms of communications and messaging support for use in broader public outreach and base building. Importantly, these are areas for which coalitions do not currently receive support from current national ecosystem actors (Exhibit 5, next page).

“So many of our small grassroots organizations led by women of color are just underfunded and under-resourced. So, when those are the kinds of organizations that are coming together, a lot of times we don’t have the capacity and skills or the space to think strategically and long term.”

Exhibit 5. Areas of support to coalitions to assist in expanding their preemption strategies

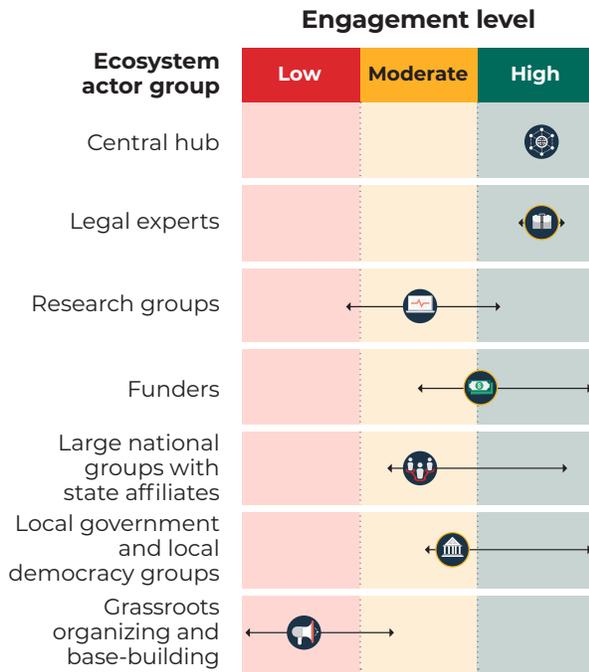


Despite these contributions, the existing ecosystem does not include organizations with the expertise required to fully support the more comprehensive approach that state-level coalitions wish to advance for their preemption efforts.

Through our interviews, we assessed the level of engagement of actor groups in the national preemption ecosystem (Exhibit 6, next page).

RWJF and its grantees demonstrated high levels of engagement in the ecosystem. As these are also the primary organizations providing financial and technical support to state-level coalitions, the high quality support they have provided substantially contributed to the success of current legislative advocacy strategies at the state level.

Exhibit 6. Levels of engagement in the national preemption ecosystem



The current ecosystem, however, does not include organizations with the expertise required to fully support the proactive approach that state-level coalitions wish to advance for their preemption efforts. Our assessment indicated that the groups that bring this expertise (specifically, networks of grassroots organizing and base-building groups) had relatively low engagement in the ecosystem.

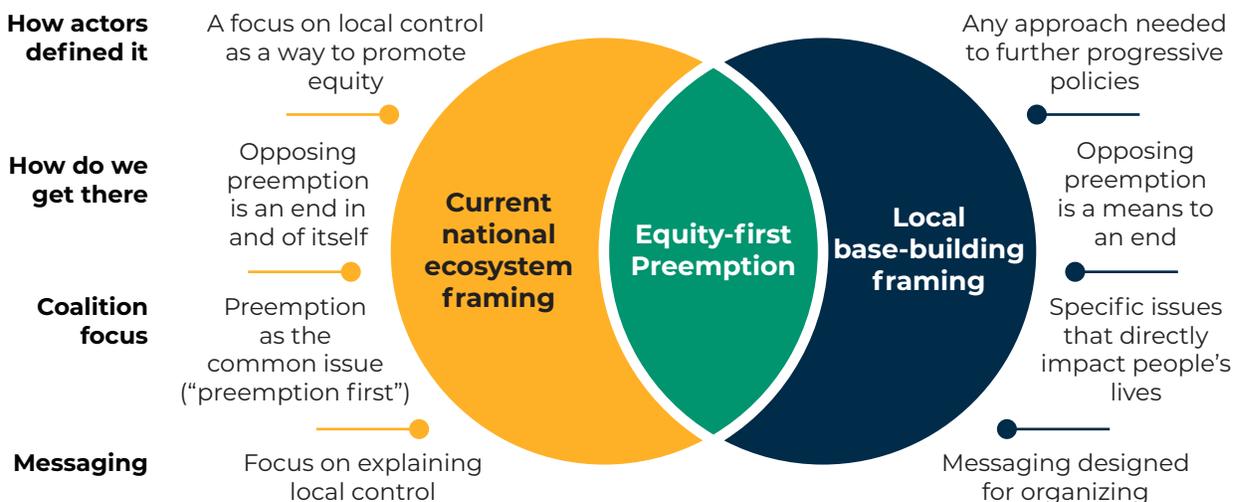
Though some of these groups opposed preemption on their own, they were not actively coordinating strategies and the delivery of support with RWJF grantees and other national preemption ecosystem actors. Broadening RWJF's current ecosystem will require addressing some of the barriers associated with their relatively lower engagement.

One potential barrier to more meaningful engagement in the national ecosystem is that groups held varying perceptions of how to advance equity in their work and how power would have to shift within the national ecosystem and state coalitions to achieve this.

In our interviews, we asked national networks of grassroots organizing and base-building groups what it would take to increase their engagement in the national preemption ecosystem. We learned that differences in how the ecosystem actors conceptualize and actualize equity in their work (specifically regarding their approaches to advancing equity-first preemption) was a potential barrier to their meaningful engagement (Exhibit 7).

Current ecosystem leadership framed equity-first preemption as a focus on local control to promote equity (though acknowledging that in some cases preemption serves to prevent inequitable local policies). As such, opposing preemption that takes away local control is the main approach to advancing equity.

Exhibit 7. Varying perspectives on equity-first preemption



Proponents of this framing advocate for building cross-ideological and nonpartisan partnerships that can further this goal. These groups talked about the need to broaden coalitions by using messaging related to the importance of local control to further equitable policies.

Many of the base-building groups, however, expressed concern about a framing of equity-first preemption explicitly linked to local control, because of the historical context in which localities have deliberately enacted racist or otherwise non-equitable policies and in which preemption has served as a tool to prevent this. In addition, the current political context in certain areas – including many rural and suburban communities – means that local control would not always result in furthering policies which are centered on the priorities of communities most impacted by inequities. These respondents felt that local control does not always lead to positive health outcomes for communities. Rather, they discussed the concepts of equity and power as two interconnected concepts.

Coalition members specifically discussed their efforts to advance equity as part of a wider process. That process is linked to understanding who holds power to make decisions that shape people’s lives and how to redistribute that power from being concentrated with a few to in the hands of many. In this context, coalitions equated the process of advancing equity in their work as directly related to their desire to move to a more proactive approach to preemption: shifting from a primary emphasis on a policy advocacy approach, in which fewer people (and often those from non-historically marginalized communities) lead, to incorporate a base-building approach, in which more people (particularly those from historically marginalized communities) lead efforts to make systemic changes designed to shift the balance of power and change the underlying conditions that lead to inequities.

Rather than advocating for local control as a means to oppose preemption in all cases, they expressed a need to identify an equity-first strategy focused on shifting power to communities that have been historically marginalized to increase racial, economic, and gender equity.

Preemption fit into this strategy but was a means to furthering a progressive agenda centered on the priorities of communities most impacted by inequities. These stakeholders reported a range of approaches they felt were necessary to apply this approach to their work, including centering leadership of people most impacted by preemption, ensuring coalition agendas include issues critical to historically marginalized communities, and using equity as a criterion in coalition decision making.

National networks of grassroots organizing and base-building groups stated that this disconnect into how to frame equity-first preemption—and who decides the framing within the national ecosystem—might present a barrier to their willingness and ability to work together collaboratively, and it ultimately impacts their engagement in state-level preemption-first coalitions. One respondent equated current preemption coalitions with a local control framing and cited this as a reason that some of their state-level affiliates are not actively engaging in these coalitions.

Implications

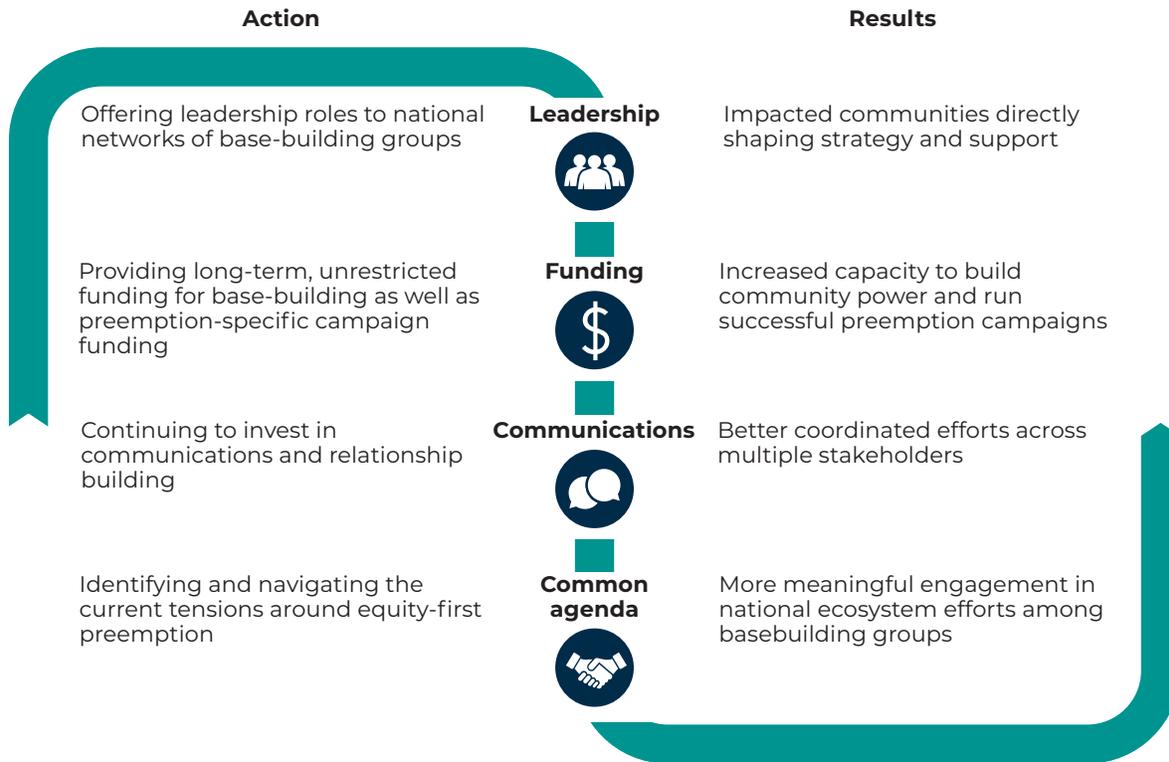
Building a national movement to better support state-level preemption opposition will require advancing equity considerations in how the national ecosystem is structured and operates.

RWJF has an opportunity to help build and shape the movement at the national level so that the ecosystem is better structured to provide the support that state-level coalitions need to effectively fight preemption. We identified four overarching implications for the ecosystem moving forward to help further this movement: leadership, funding, communications, and building a common agenda (Exhibit 8, next page).



Leadership. Many state-level coalitions are advancing equity in their coalition-level work by centering the leadership of their efforts around grassroots organizing and base-building groups or by looking for ways that policy advocacy groups can share power with and offer more prominent leadership positions for these groups.

Exhibit 8. Strategies to advance equity in the national preemption ecosystem



To better meet the needs of these coalitions, the national ecosystem should consider offering leadership roles to national groups led by and build power among communities most impacted by preemption. This will provide these communities with opportunities to directly shape the national strategy and support provided to state-level coalitions.

Funding. To implement expanded preemption strategies, state-level coalitions require access to unrestricted funding to strengthen their organizational capacity and build their base around issues that are centered on the priorities of communities most impacted by inequities. This includes general operating support to fund the salaries and infrastructure to support organizing. When these organizations have a strong base of support for their agenda, coalitions will also need preemption-specific support and funding to win preemption campaigns. This could include support for model policies, developing strategies around preemption campaigns, messaging support, funding for digital ad campaigns, and so on.

Right now, the preemption ecosystem only provides funds for preemption-specific campaigns and not the long-term, unrestricted funding that organizations require to build their base in order to make these campaigns successful. Ecosystem actors must collaborate with other funders and philanthropic organizations outside of the preemption ecosystem to coordinate their support with state-level coalitions within and outside their current organizations.

Communications. Current national ecosystem actors should continue to invest in and expand strategies that improve coordination of state-level support, including communication strategies and other opportunities to build relationships between ecosystem actors. These could include activities such as asset mapping of current ecosystem actors to better understand can fill support gaps as well as helping establish—or reboot—a formal coordination structure between ecosystem actors. Through all of these investments, an equity lens should be applied in design and implementation.



Common agenda. National ecosystem actors should look for opportunities inside or outside the current ecosystem to help align on a common agenda for preemption. Greater engagement of a wider set of ecosystem actors will be necessary to provide the robust support that state-level coalitions require. Finding ways to address tensions of how preemption is framed at the national level might facilitate engagement of grassroots groups in this wider effort.

Conclusions

This assessment documented the ways that RWJF-funded grantees supported state-level preemption opposition by building, strengthening, and broadening a national ecosystem of organizations to collectively support cross-issue coalitions as well as strategies to further support these coalitions as part of a more proactive approach to preemption opposition. This study also generated important insights for preemption funders, implementers, researchers, and evaluators into how different ecosystem actors conceptualize and actualize equity in their work, identifying different perspectives for consideration as each of these groups strives to further center equity in their own work.

Although this study generated important findings to help inform future ecosystem investments, it had a limited scope in terms of the questions it was intended to answer. As a result of our four engagement events, we identified additional questions in which respondents would like to see more information regarding preemption efforts. These included understanding the effectiveness of current efforts, specifically on how lawmakers and other decision makers perceive coalition efforts and understanding how different combinations of strategies could serve to further their work. Future exploration of these areas could generate important insight to improve the effectiveness of preemption opposition and ultimately address health inequities in the long term.

ACKNOWLEDGEMENTS

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ABOUT MATHEMATICA

The Mathematica team that conducted the research presented in this report include Lello Guluma, Drew Koleris, So O'Neil, Lisa Schottenfeld, and Michelle Sou.

As an organization, Mathematica collaborates with federal agencies, state and local governments, and foundations to gather evidence, illuminate insight, and apply expertise to improve programs, refine strategies, and enhance understanding.

