

# Just The Two of Us Tobacco + Marijuana



**Policy Parallels of Secondhand Smoke, Licensing, and Zoning Regulations at The Local Level**



**Presentation by: Alexandra Winston, Statewide Technical Assistance Trainer, UCSF'S The Loop**

# Recent Policy Breakthroughs @ The State Level

- SB 5 X2 (Leno) – Adds e-cigarettes to existing tobacco products definition.
- SB 7 X2 (Hernandez) – Increases the age of sale for tobacco products from 18 to 21.
- AB 7 X2 (Stone) – Closes loopholes in the state smoke-free workplace law.
- AB 9 X2 (Thurmond) – Requires all schools to be tobacco-free.
- AB 11 X2 (Nazarian) – Increases licensing fees on tobacco businesses.
- Proposition 56 cigarette tax to fund healthcare, tobacco use prevention, research, and law enforcement.



# Secondhand Smoke/Vape Laws

## Indoor Air

- Places of employment\*
- Places of business\*
- Multi-unit housing
- In-home daycare\*
- Inside a vehicle with a minor present\*
- Foster Homes\*
- Schools indoor/outdoor\*

## Outdoor Air

- Parks
- Outdoor dining
- Public events
- Outdoor worksites
- Reasonable distance from public (government) buildings 20 ft\*
- Common area/balconies on multi-unit properties
- Farmer's markets\*
- Youth sporting events\*
- Tot lots & playgrounds\*



# Secondhand Smoke/Vape Laws vs. Prop 64

## What's Covered Already

- Smoking inside places of employment & business that are not marijuana retailers
- Indoor common areas in multi-unit housing
- Daycares including in-home
- Schools
- Foster homes
- Public transit
- In vehicles
- Public outdoor spaces

## What's Not Covered

- Multi-unit housing inside units and outdoor common areas
- Inside or outside marijuana retail establishments out of public view **IF** local jurisdictions allow it
- Private property without public access

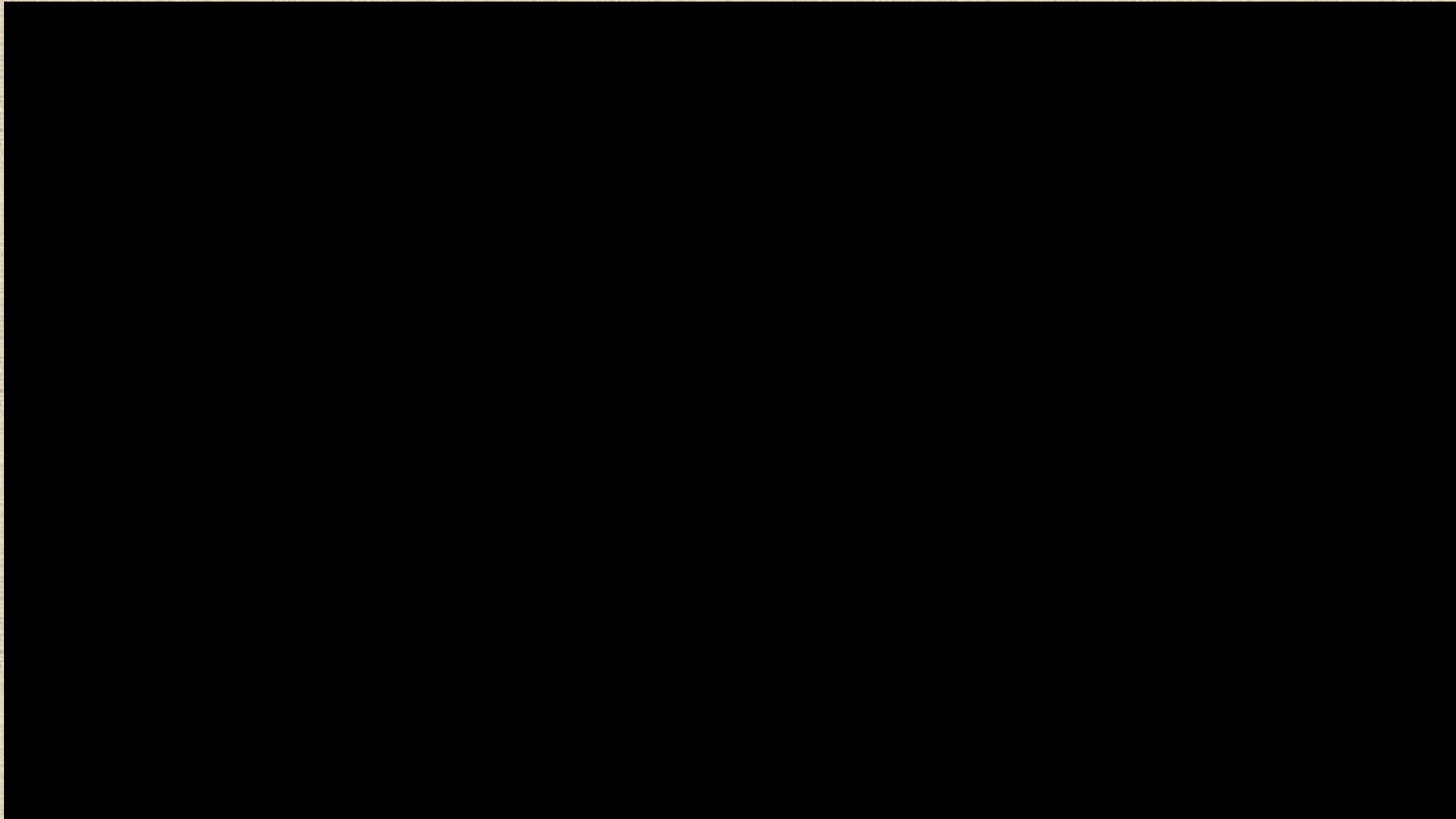


# Possible Inequities & Solutions

- Only people with ownership or access to their own privately owned homes can participate.
- Increased police harassment between those smoking or vaping marijuana in public.
- Marijuana smoke drifting and harming other tenants in multi-unit housing.
- Pass a resolution or policy that states that possession or consuming marijuana in public is a lowest enforcement priority. ~Oakland & Santa Cruz
- Local jurisdictions can allow consumption of marijuana inside retailers to alleviate some street consumption.
- Multi-unit properties can set up a designated smoking area within a reasonable distance from doorways, windows, or heating & air intakes.



# An Environment By Design From Yours Truly, The Tobacco Industry



# The TRL Restrictions Menu

## The Moon & The Stars

- No discounts or coupon redemption\*
- Minimum percentage of window advertising\*
- Minimum price\*
- Minimum pack-size
- Flavored tobacco prohibition\*
- No sampling\*
- Tobacco-free pharmacies
- Retailer location restrictions\*



# Retailer Zoning, Density, & Caps

- **Buffer zones** | Currently Marijuana retailers cannot locate within 600 feet of a school, daycare, or youth center **UNLESS** allowed by local government.
- **Density** | There are no current restrictions on how closely marijuana retailers can locate near one another.
- **Cap** | There is currently no cap on the number of marijuana retailers that a city or unincorporated county can have unless already regulated locally.
- **Example of tobacco retailer cap** | *San Francisco*
  - The total number of existing permits in the Supervisorial District will not exceed 45.
- **Example of tobacco retailer zoning and density restrictions** | *El Cerrito*
  - 1. Minimum distance from a residential district boundary: 500 feet.
  - 2. Minimum distance from other Tobacco Sales: 1,000 feet.
  - 3. Minimum distance from educational, religious, or cultural institutions and public parks: 500 feet.





# Retailer Licensing

- California has statewide licensing fees for tobacco. Licensing fees and regulations are currently being developed by the state for medical & non-medical marijuana.
- Cigarette and tobacco products license fees are deposited in to the Cigarette and Tobacco Products Compliance Fund solely for the purpose of implementing, enforcing, and administering the California Cigarette and Tobacco Products Licensing Act of 2003.
- The Act is intended to decrease tax evasion, has provisions for recordkeeping requirements, inspections, and seizures of any untaxed cigarettes or tobacco products, and imposes civil and criminal penalties for violations.





# Physical Activity Break

**Life with the Wright Family**



# Retail Advertising

Current State of California restrictions limit storefront signage to cover less than 33% of window space.



The only advertising restriction included in Prop 64 is that storefront signage isn't "appealing to youth." Similar to the no cartoon characters rules around tobacco. Remember Joe?



# Flavors...Again

## THE BAD NEWS:

- Attractive to young people because of their vibrant, candy like appearance.
- Reports from 2012-2015, 29,141 calls are made to poison control for children under 6 that have ingested e-juice. That is an increase of 1,500%.



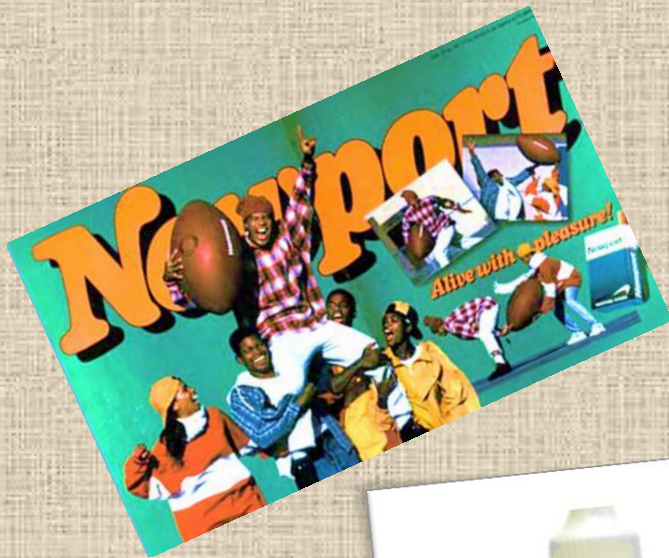
## THE GOOD NEWS:

- Prop 64 already requires retailers to be 21+ only.
- Prop 64 retailers CANNOT sell tobacco or alcohol in conjunction with marijuana (no corner stores).



# Menthol

In the words of Dr. Phil Gardiner, “Menthol helps the poison go down easier.” Menthol anesthetizes the throat and lungs to make it easier to inhale deeper.



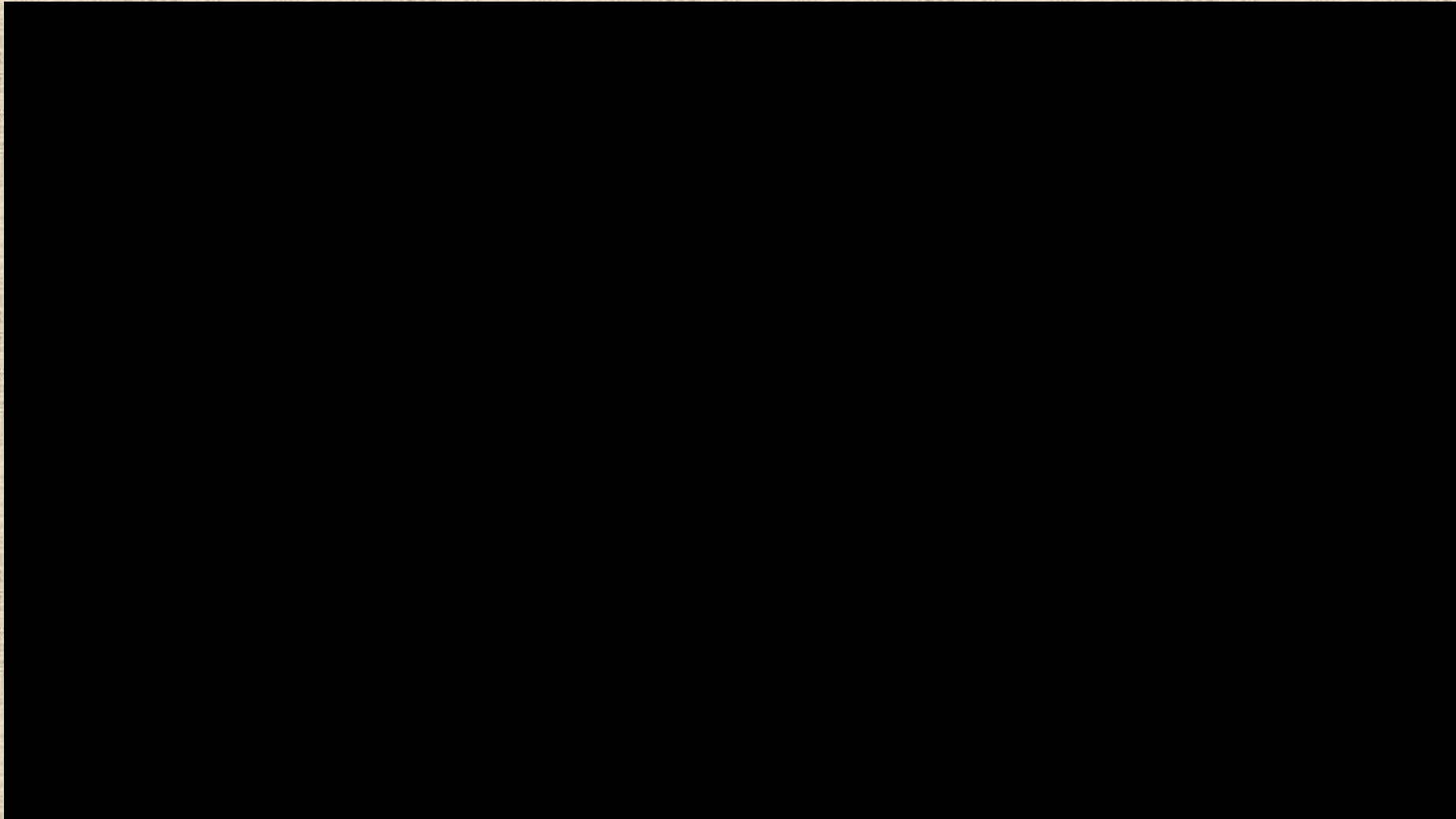
Menthol tobacco is inequitably marketed to African Americans, the LGBTQ+ community, Asians, Latinos, & women.



A literature review published by Dr. Valerie Yerger and Dr. Ruth Malone at UCSF shows that melanin binds to and stores nicotine in skin. In other words, the darker your complexion/skin tone the more nicotine you can absorb. A fact that was known by the tobacco industry since the 1950's.



# **Social Justice, Health Equity, & Cultural Humility**



# Minimum Price

- The number one thing that has been proven to help smokers quit and stop people from ever starting, is raising the price of tobacco.
- Raising the price makes products less attainable for youth and low-income communities that have been targets of the tobacco industry.
- The retailers keep the increased dollars that are not already attributable to excise taxes, which softens counter arguments against retail licensing objectives.



# Enforcement Operations

- Decoy purchase sting operations are done with local Police or Sheriff's Departments to ensure that the legal age to purchase tobacco products is being followed.
- Depending on what is written in the body of a TRL policy, an agency department will be responsible for doing store inspections to ensure compliance with TRL provisions.
- Department examples that might be responsible for compliance checks: Public Health Department, Environmental Services, Code Enforcement, Police and Sheriff's Departments (already doing ABC operations)







**It's not about what  
you say, it's how  
you say it.**

**How definitions in policy can make or  
break your loophole.**



# A “Significant” Example

- Oakland TRL Originally applied to “significant” tobacco retailers only.
- Vice Mayor Larry Reid has requested staff prepare ordinance amendments to require a conditional use permit for the sales of tobacco and tobacco related products of any quantity in the City of Oakland. Currently, the City of Oakland Planning code only regulates such sales when they comprise more than 20% of the net retail floor area or 75% of the sales receipts. **The impetus for this request comes from the high incidence of nuisance activity at small "smoke shops" that are able to comply with the under 20% floor area requirement and thereby escape regulation on location and operational characteristics.** The Zoning Update Committee considered the proposed amendments on October 17, 2007 and recommended approval by the Planning Commission. The Planning Commission will consider the text amendments at their March 19, 2008 meeting.
- New Definition, “Tobacco Retailer” as used in this Chapter shall mean any Person who sells, offers for sale, or does or offers to exchange for any form of consideration, tobacco, Tobacco Products, or Tobacco Paraphernalia. “Tobacco Retailing” shall mean the doing of any of these things. ***This definition is without regard to the quantity of tobacco. Tobacco Products, or Tobacco Paraphernalia sold, offered for sale, exchanged, or offered for exchange.***”



# Policy Breakthroughs & Evolution @ The Local Level

- **Hayward 2013-** Banned flavored tobacco excluding menthol for all new tobacco retailers.
- **Santa Clara County 2014-** Banned flavored tobacco sales exempting adult only tobacco stores. 2017 Added menthol cigarettes.
- **El Cerrito 2015-** Banned all flavored tobacco except menthol cigarettes.
- **Berkeley 2015-** Banned flavored tobacco sales within 600 feet of schools.
- **San Francisco 2017-** Bans all flavored and menthol tobacco products including menthol cigarettes NO EXEMPTIONS!
- **Contra Costa County 2017-** Bans flavored tobacco sales including menthol cigarettes from 1000 feet of schools and parks.
- **Oakland 2017-** 2<sup>nd</sup> Vote 9/19/17 Bans flavored tobacco sales including menthol cigarettes, exempting adult only tobacco stores.
- **San Leandro 2017-** Voting 9/18/17 Bans all flavored tobacco possible proposal to amend to include menthol cigarettes, NO EXEMPTIONS.





# Building A Policy Campaign

**Community Buy-In, Organizing, and Education are Paramount!**



# Speak to People Where They Are



## TOWN HALL ON TOBACCO & SOCIAL JUSTICE FREE DINNER

Childcare Provided

### WHEN

**January 9, 2017**  
**5:00pm - 7:30pm**  
Presentations to begin promptly @ 5:30

### WHERE

**Alameda County  
Public Health  
Department**

1000 Broadway, 5<sup>th</sup> Floor Conference Rooms  
5000 A&B, Oakland, CA 94607

**AFRICAN AMERICAN  
TOBACCO CONTROL  
LEADERSHIP COUNCIL  
PRESENTS:**  
**Saving Black Lives:  
The Truth About  
Menthol & Flavored  
Tobacco**

**RSVP REQUIRED@**  
**THIS LINK OR BY VISITING**  
**WWW.TOBACCOFREEALA**  
**MEDACOUNTY.ORG OR**  
**(510) 208-5920**

### SPONSORS

- Alameda County Tobacco Control Coalition (host)
- La Clínica de La Raza, Inc.
- Roots Community Health Center
- California Adolescent Health Collaborative
- Black Women Organized for Political Action/Training Institute for Leadership Enrichment
- Community Health Education Institute
- Health & Human Resource Education Center (HHREC)

**Catering by:**  
**Organic Choice**

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- LA CLINICA DE LA RAZA, INC.
- ROOTS COMMUNITY HEALTH CENTER
- CALIFORNIA ADOLESCENT HEALTH COLLABORATIVE
- BLACK WOMEN ORGANIZED FOR POLITICAL ACTION (BWOPA)/ TRAINING INSTITUTE FOR LEADERSHIP ENRICHMENT (TILE)
- COMMUNITY HEALTH EDUCATION INSTITUTE (CHEI)
- HEALTH & HUMAN RESOURCE EDUCATION CENTER (HHREC)
- THE LOOP
- AFRICAN AMERICAN TOBACCO CONTROL LEADERSHIP COUNCIL (AATCLC)
- ALAMEDA COUNTY PUBLIC HEALTH DEPARTMENT



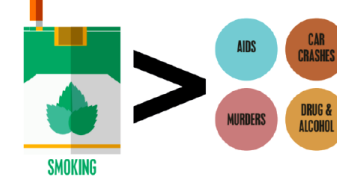
## THE ALAMEDA COUNTY TOBACCO CONTROL COALITION WELCOMES YOU TO OUR TOWN HALL ON TOBACCO & SOCIAL JUSTICE

Monday, January 9, 2017  
5:00pm - 7:30pm

## AFRICAN AMERICAN TOBACCO CONTROL LEADERSHIP COUNCIL & THE LOOP PRESENT:

**Saving Black Lives: The Truth About  
Menthol & Flavored Tobacco**

### MENTHOL'S IMPACT BY THE NUMBERS



ACCORDING TO THE CENTERS FOR DISEASE CONTROL AND PREVENTION, smoking-related illnesses kill more Black Americans than AIDS, car crashes, murders and drug and alcohol abuse combined!

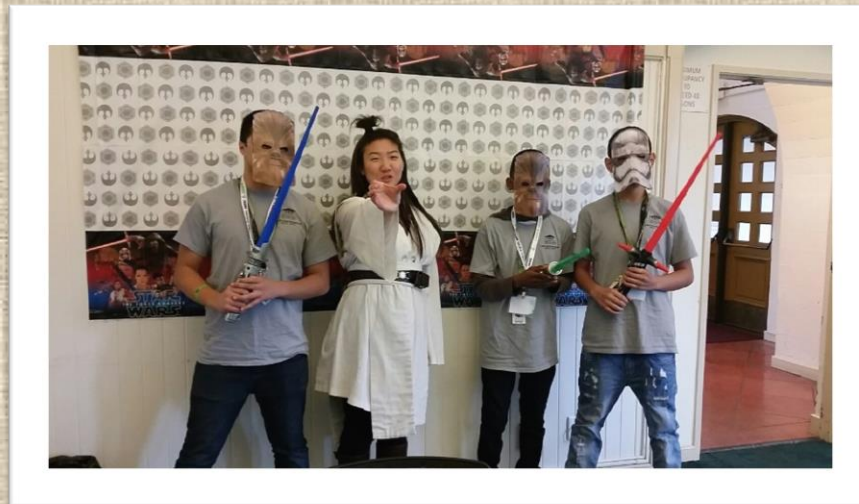


# Host a Youth Summit

Work with existing youth serving organizations! You can host a youth summit on your policy initiative so that youth leaders in the community can learn about policy, self-empowerment to create change, and health equity.



# Health Fairs, Farmer's Markets, & Community Events



# Press Conference Time!







# Advocacy Activity

**Public Comments Workshop - Hypothetical Flavored Tobacco Ordinance**



# Advocacy Tool Box

- Public comment is the most powerful tool in the advocacy tool box.
- Community involvement in civic government is vital to creating a healthy environment for everyone and future generations.
- Even if you are unable to advocate on behalf of your organization, you can always advocate on behalf of a Coalition or as a private citizen. P.S. It's not lobbying if you aren't on the clock.
- Even if you are not from the city/county that is hearing a policy that you care about, you can advocate. The leadership of others can assist your own city to do the same.



# What to Expect

- Speaker Cards
- 1-2 Minutes
- Timing Lights & Clock
- Time's Up!



# 3 Styles of Public Comment

- Share a personal experience
- Share research and fact based evidence to support the reason for the ordinance
- Respond to the opposition



# Directions

- Pick 3 main points that you would like to make about a flavored tobacco or marijuana restrictions ordinance
- Craft a one minute comment
- Come up and share your comment out loud with the room (yes out loud!)
- After everyone has made their comment we will have a reflective conversation about the activity and an opportunity to share feedback.



# Contact Information

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