

MEMORANDUM

August 5, 2020

TO: Colorado Local Government Leaders
FROM: Colorado Cities and Counties
SUBJECT: Opioids Settlement Discussions

Dear Local Government Leaders of Colorado,

Like you, we represent cities and counties of all sizes from across all parts of Colorado. We welcome you to join our efforts to achieve maximum recovery from opioid producers and distributors and generate the most impact in Colorado. Some of us have sued opioid manufacturers and distributors for the devastating damage they have wrought in our communities related to the opioid crisis. Some have chosen not to file suit.

Whether or not your community has chosen to file an opioid lawsuit does not matter for purposes of this letter. In fact, our proposal for opioid settlement monies will treat your community just as well as we treat ours, whether it has filed suit or not. Please know that attorneys' fees are not driving our proposal for how settlement monies should be allocated. Those fees will be paid in any settlement for both the state and local governments that filed suit, but they are not a concern for the overall framework.

Right now, settlement discussions with several defendants in the opioid litigation are well underway. As local leaders, we have a crucial role in making sure Colorado recovers as much money as possible and that those funds are directed where they will help our communities. We believe that local governments bear the brunt of the burden of the opioid crisis, and they should therefore receive most of the total settlement. If we don't make our voices heard, a one-size-fits-all allocation will be rolled out between states and the defendants that prioritizes the state's needs and doesn't put our communities first.

We have learned a great deal over the past few decades from the tobacco litigation, as some states frittered away settlement money on projects unrelated to tobacco addiction. We insist that any settlement funds from this litigation are designated solely for opioid abatement purposes to directly support affected individuals and communities.

We want to reduce barriers to local communities getting the monies they need to address the opioid crisis. From recent experiences with CARES funding, we know how difficult it can be to obtain much needed funds via the state and federal governments and want to minimize red tape related to these settlement funds.

It's important for all of our voices to be heard on this issue because millions of dollars for Colorado communities over many years to come are at stake. It is essential that we develop a structure that will endure long after many of us have moved on from public office.

As you consider different settlement allocation proposals, there are three main things to keep in mind:

1. Local governments have power vis-à-vis the state, and they are crucial voices in this conversation.

Local governments have real negotiation power here. Some defendants are imposing significant penalties if local governments and the state are unable to agree on how to divide the money. In other words, if the state makes proposals we can't agree to, the entire state of Colorado will receive less money. **That means the state government needs our agreement to maximize recovery, and we don't have to just accept whatever the Colorado Attorney General's Office offers.** And, while local governments will not be treated differently depending on whether they filed suit, many of us *have* filed lawsuits, which opioid manufacturers and distributors would require us to dismiss in the course of settling the opioid litigation. We can and do insist that the Colorado Attorney General takes our proposal seriously.

2. The Local Government allocation proposed by the Colorado Attorney General is half as much as our proposal.

Colorado isn't the only state having this conversation. Negotiations nationwide have resulted in a variety of outcomes in terms of how much autonomy local governments have. Some statewide proposals favor local governments, and we believe any Colorado proposal should do the same.

The Colorado Attorney General proposes that local governments only directly receive 15% of settlement funds. In Ohio, however, local governments will receive *double* that amount, 30% of settlement funds, to be paid directly to the local governments. We believe that Colorado should adopt a plan more like Ohio's, with 30% of the total Colorado settlement going directly to local governments, 15% to the state, and 55% to local regions in the form of block grants to local government-run regions.

3. Local governments should choose regions, and regions should decide how regional settlement funds are spent.

We propose that counties decide whether to form a region, either individually or with one or more neighboring counties. Regional funds would be distributed directly to regions through block grants, because we believe local regions are in the best position to decide how settlement funds can be used to fight the opioid epidemic in their communities. This would avoid the administrative expense, delay, and uncertainty of discretionary grants awarded by a statewide committee. As an alternative to creating or joining a local region, local governments could instead choose to join a statewide region where regional allocations are administered by the state.

Local governments in Colorado should not settle for a one-size-fits-all, top-down approach as some are urging. Join us in ensuring that local governments maximize recovery to address the opioid crisis.

For more information and to show your support, please reach out to Ron Carl of Arapahoe County at RCarl@arapahoe.gov or opioids@kellerrohrback.com. You can learn more about the proposed opioid settlement allocation in the accompanying list of Frequently Asked Questions.