

Public Participation Executive Summary

Adapted from Public Participation Plans: Federal Guidance and State Examples

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I. Overview

There is a growing need to have well-understood definitions for policymaking as associated problems of environmental racism and injustice become rampant. Many federal, state, and municipal policies have developed definitions and tools to identify environmental justice (EJ) components using environmental, socioeconomic, public health, demographic, and other indices. These definitions are important because they help clarify critical components of EJ policy.

One effective principle of EJ decision-making is public participation. Public participation, also referred to as citizen participation or public involvement, describes the process of including the public in decision-making and activities to reach project goals. The principle of public participation maintains that those affected by a decision have a right to be involved and implies that contributed decisions influence the outcome(s).¹ Interested parties can include communities, individuals, companies, governments, institutions, or other stakeholders. Activities under the principle include seeking comments on issues and policies, sharing government information, and using public inputs in decision-making.²

Public participation processes should empower stakeholders to be involved in various aspects and degrees of decision-making. Generally, public participation should facilitate the involvement of those impacted by a decision. For example, the National Institute of Health (NIH) defines “Community engagement” as, “...the process of working collaboratively with and through groups of people affiliated by geographic proximity, special interest, or similar situations to address issues affecting the wellbeing of those people.”³ This definition brings together concepts regarding impacted parties, their role, and the role their actions can have in government.

A. The Spectrum of Community Engagement

Different forms of participation can be distinguished from others through what is called [“the spectrum of community engagement.”](#)

¹ EPA, *Public Participation Guide: Introduction to Public Participation*, <https://www.epa.gov/international-cooperation/public-participation-guide-introduction-public-participation> (last visited July 29, 2022).

² Principles of Community Engagement. *Clinical and Translational Science Awards Consortium Community Engagement Key Function Committee Task Force on the Principles of Community Engagement*. https://www.atsdr.cdc.gov/communityengagement/pdf/PCE_Report_508_FINAL.pdf.

³ CDC, Agency for Toxic Substances and Disease Registry, *Principles of Community Engagement*, https://www.atsdr.cdc.gov/communityengagement/pce_what.html.

The spectrum of community engagement provides a framework and shared language to communicate how much impact public participation can or will have in the decision-making process. The spectrum includes the following stances towards community participation: ignore, inform, consult, involve, collaborate, and defer to.⁴ Each perspective consists of a different impact, community engagement goal, and resource allocation ratio. Identifying where community engagement activities from planning documents fall on the spectrum provides information on the amount and level of community engagement allowed. However, this is not often directly communicated to community members during decision-making.

Environmental issues are dynamic and complex, necessitating policymakers to embrace diverse sources of knowledge, experience, and values. One way to do so is to have governments and others call on those in positions of power to provide public access to information, implement educational and public awareness programs, and seek public participation in addressing environmental and climate injustice. Ultimately, public participation must be a communicative process that informs, consults, and involves the citizens in institutional, governmental, and company activities of decision, legal, and policymaking.

II. Federal Requirements

Federal law establishes baseline requirements for public participation that must be followed by state agencies that receive federal financial assistance through Title VI of the Civil Rights Act of 1964, which mandates that “[n]o person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” Title VI⁵ itself prohibits intentional discrimination, and federal agencies implementing Title VI have uniformly prohibited actions that have the effect of discriminating based on race, color, or national origin.⁶

Recipients of federal funding from EPA must comply with EPA’s implementing regulations and guidance, requiring recipients of federal funds to, at a minimum: (a) collect, maintain, and provide information showing compliance with Title VI and the regulations, (b) designate a nondiscrimination compliance coordinator, (c) adopt grievance procedures that assure prompt and fair resolution of discrimination complaints, and (d) provide continuing and prominent public notice of nondiscrimination based on race, color, national origin, age, sex, or disability and the identity of the nondiscrimination coordinator.⁷

III. State Requirements

⁴ *Id.*

⁵ Title VI, 42 U.S.C. § 2000d et seq.

⁶ See 40 C.F.R. Part 7 (EPA regulations); see also Dept. of Justice, Title VI of the Civil Rights Act Legal Manual,

<https://www.justice.gov/crt/fcs/TitleVI#:~:text=Title%20VI%20Materials%20Executive%20Order%2012250%20authorizes%20the%20VI%20of%20the%20Civil%20Rights%20Act%20of%201964.>

⁷ *Id.*

Many states rely on guidance from EPA because of the legal requirements of Title VI of the Civil Rights Act. However, many states also have their own legal framework for public involvement under the various enabling statutes administered by the state agency and the administrative procedures of a state. Some states, like Washington, are ahead of the curve and have robust community engagement strategies and laws. Others, like Michigan, have struggled to implement their own guidance.

California was one of the first states to codify environmental justice in law, and now has numerous laws, programs, and guidance that inform public participation processes. For instance, the California Environmental Quality Act⁸ requires state and local government agencies to inform decision makers and the public about the potential environmental impacts of proposed projects, and to reduce those environmental impacts.⁹ A key feature of the law is the requirements to provide opportunities for the public to review and participate in decision-making processes. California agencies also have public participation guidance.

Contrarily, numerous communities have alleged that Michigan’s Department of Environment, Great Lakes, and Energy (EGLE) has violated Title VI of the Civil Rights Act for discriminatory practices such as failing to provide language access, intimidating community members at public meetings, and disregarding communities of color in the agency’s decision-making process. As a result, EPA has required Michigan to implement public participation and language access procedures.

Participation Plan Elements State Comparison			
	California	New York	Michigan
Public Participation Plan	Yes	Yes	Yes
EJ Definition	Under state law: “[E]nvironmental justice” means the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies. (Gov. Code, § 65040.12, subd. (e)).	EPA’s definition	EPA’s definition

⁸ CEQA, <https://opr.ca.gov/ceqa/>.

⁹ *Id.*

Translation Services	The Office of State Planning (OSP) provides full-service translation, transcription, and interpreting services (e.g., large print materials, braille materials, audio recordings, qualified language, and American Sign Language interpreters, and document language translation) as needed	The Citizen Participation Handbook does not provide contact names for obtaining translation of documents and/or translation of meetings.	N/A
Website / Online Information	N/A	N/A	N/A

IV. Developing an Effective Public Participation Plan

States and the federal government must design public participation programs to assist responsible parties, municipalities, applicants, and contractors in planning, facilitating, and implementing communicative strategies during the various stages of their projects. They must enable citizens to participate in decisions that affect their environment, health, and social wellbeing. Further, programs must provide opportunities for public involvement and ongoing communication with the public before decision-makers adopt final opinions. Successful implementation of a public participation program and related activities requires strategic planning. A typical site public participation plan or program contains and integrates several steps:

- Plan public participation activities for effectiveness.
- Conduct public participation activities to promote meaningful participation by citizens.
- Incorporate results of public participation into decision-making as appropriate.
- Evaluate public participation activities for effectiveness and adjust the program as appropriate.

Public participation is an integral part of the process. Conducting minimal public participation activities is essential to ensure public involvement and necessary to inform the public throughout all stages of a project. Public participation programs must begin early, and requirements must be applied consistently from step to step. State statutes and DEC regulations establish these tasks as the minimum requirements. At a minimum, interested parties should coordinate with staff, agencies, and the public to plan and implement participation efforts.