

Developing an Equity Impact Statement

A Tool for Local Policymaking



Applied Research Center Grass Roots Innovative Policy Program
3781 Broadway • Oakland, CA • 94611 • 510.653.3415
www.arc.org • arc@arc.org

Developing an Equity Impact Statement for Local Policymaking

About this tool

This document provides a framework for a jurisdiction interested in advancing equity as part of the policymaking process. It is not a legal document but a concept paper that will provide ideas for findings and procedures that in many cases can be incorporated into *existing* frameworks for the consideration of proposed ordinances and other rulemaking. It will be necessary to adapt and expand the suggested findings below to local issues and conditions. The Courts are requiring ever increasing evidence that local policymaking to address bias be firmly rooted in local conditions and not be simply based on bias in society "at large". As a result, this document is relatively short with a number of organizations listed below as resources for further information in an individual area.

What follows is essentially a set of questions and actions for a jurisdiction to integrate into its policymaking process. This is not a set of indicators against which to evaluate equity. Too often, institutions develop indicators and measure them, only to produce reports that have little impact on policymaking itself. Indicators and the evaluative processes that use them are important. However, this tool is designed to be adapted and integrated into the decisionmaking process itself.

Why measure equity impact?

Equity and fairness in policymaking is no accident. Legislative bodies must pay close attention to the impact of their policies and play an active role in ensuring that both their intent and impact are consistent with a jurisdiction's expressed values. By measuring equity impact in a few representative areas, a legislative body can assess whether laws and rulemaking advance a shared agenda of fairness; spread the burden of regulation fairly; and help address historic patterns of institutional bias and discrimination.

There is another critical reason to develop ongoing measures of equity in policymaking. Jurisdictions are under "strict scrutiny" by the Courts when undertaking race conscious remedies and "intermediate scrutiny" when undertaking gender conscious remedies. The two-pronged test of strict scrutiny is:

- compelling government interest
- the intervention is narrowly tailored to address the effects of demonstrated discrimination

A jurisdiction will find it difficult to meet these standards without identifying compelling interest and building a body of evidence of local decisionmaking and its impact on its various constituents.

In implementing this process, it is highly recommended that the jurisdiction consider awarding an assessment contract out to an appropriate research entity in much the same way as a jurisdiction would identify an agency to conduct an environmental impact

statement. Larger, more complex projects may benefit from the input of an organization experienced in this kind of evaluation.

Defining the concern and scope of the process

It is important to clearly identify the communities of concern to this process (racial and ethnic, gender, disabled, low-income, etc.) and establish definitions for these communities. Most jurisdictions have already defined these communities using some version of federal or state government guidelines. Be sure to include whatever relevant definitions in use in the enabling ordinance.

Adverse Effects. A jurisdiction should also clearly define what constitutes adverse effects on the communities of concern. The federal Executive Order 12898 offers useful language as a departure point in this regard:

Adverse Effects means the totality of significant individual or cumulative human health or environmental effects, including interrelated social and economic effects, which may include, but are not limited to: bodily impairment, infirmity, illness or death; air, noise, and water pollution and soil contamination; destruction or disruption of man-made or natural resources; destruction or diminution of aesthetic values; destruction or disruption of community cohesion or a community's economic vitality; destruction or disruption of the availability of public and private facilities and services; vibration; adverse employment effects; displacement of persons, businesses, farms, or nonprofit organizations; increased traffic congestion, isolation, exclusion or separation of minority or low-income individuals within a given community or from the broader community; and the denial of, reduction in or significant delay in the receipt of, benefits of [jurisdiction] programs, policies, or activities.

Developing mechanisms for assessing equity impact

The following is a process that local governments can enact in order to *institutionalize* a mechanism for assessing the impact of their policies on equity and fairness. Enacting this procedure will require that a jurisdiction amend and expand the rulemaking process:

Amend or revise jurisdiction's value statements (or develop a set of findings and values) to guide this process.

A jurisdiction should articulate clear statements or findings that support policymaking that takes into account equity, fairness and historic institutional bias. A set of value statements could include the following:

- The [jurisdiction] is committed to ensuring that each and every policy enacted reflects democratic principles of equity and fairness.

- The [jurisdiction] understands that carrying on its business in a fair and equitable manner that takes into account critical issues of bias and discrimination requires concerted and purposeful action.
- The [jurisdiction] recognizes that institutions can play a negative role in issues of racial equity. It seeks to proactively and positively address both present day and past patterns of bias and discrimination in a way that truly creates equitable opportunities for all of its residents.

Findings could include:

- Local policymaking is a critical factor in the creation of opportunities for its residents. Local policies help create jobs, markets, housing; decide matters of land use and land value; and set code and rules for the administration of key public functions like law enforcement, health and sanitation, and access to recreation.
- Low-income, communities of color have been traditionally victimized by institutional bias and discrimination. Studies by the federal Office on Civil Rights, University of Michigan, Applied Research Center and others have shown that local government policies play a significant role in this victimization by enacting policies that exacerbate and/or maintain inequity.
- Local budget and resource allocation practices are traditionally biased toward more affluent and white residents of local jurisdictions. Studies by the Applied Research Center and the Institute on Race and Poverty have found that local governments that pay attention to these traditional biases and act consciously to address them develop fairer and more equitable policies that result in fairer more equitable development.
- As [jurisdiction] is committed to the fair and equitable treatment of all its residents, policymaking will reflect these values at every level of the process. Therefore, it is the [jurisdiction's] policy to actively administer and monitor operations and decision making to assure that nondiscrimination is an integral part of its programs, policies, and activities.
- There is relationship between the siting of certain negative and positive uses and the quality of life of those who reside near these uses. The [jurisdiction's] commitment to ensuring that all of its residents have a decent quality of life requires that its residents share both the burdens of necessary negative uses and the benefits of positive uses in a fair and equitable manner.
- These policies are enacted in accordance with the International Convention on the Elimination of All Forms of Racial Discrimination adopted by the United Nations and ratified by the US government in order that [jurisdiction] become a world citizen accountable to the highest standards of fairness.

- Accountability to the [jurisdiction's] constituents is important to the Council. The Council asserts the importance of evaluating the impact of its policymaking on constituents over time and utilizing this evaluation in the development of new policy initiatives.
- As part of the [jurisdiction's] commitment to accountability and impact in this area, it will increase its enforcement efforts as enforcement of policies to address bias and discrimination is as important as enacting the policies in the first place. The [jurisdiction] will commit adequate resources to support enforcement, implementation and evaluation of policies in this area.

Establish tracking systems, evaluation and reporting mechanisms that building a body of evidence

Developing a body of reportage in these areas will require expanding the roles of the [jurisdiction] attorney functions and [jurisdiction] planning offices to conduct assessments in preparation for the discussion of proposed ordinances. Assess how to use processes already in place to minimize added workload. For example, some required data and/or analysis may already be available as part of a sustainability program or planning ordinance. Local jurisdictions already committed to a high level constituent accountability will have effective policy tracking systems in place. In these cases, a few added fields to the database will make a significant difference.

Adapt a set of normative questions to be addressed that are incorporated into the legislative process. A jurisdiction can choose to exclude certain actions (i.e., resolutions, minor code revisions, etc.) from this added review. It should also specifically mandate others (i.e., economic development, budgeting, siting, planning and zoning, etc.) for review.

This process should ask at least four main questions:

1. Will this proposed policy affect compliance with state, federal, and international anti-bias and anti-discrimination policies? In what ways? If there is a problem or conflict, how might it be resolved?
2. How will the proposed policy affect access to livelihood? (affordable housing, jobs for residents, transportation, food access, emergency services and medical care, school access and quality)?
3. Will the proposed policy compromise/improve quality of life? (i.e., reduce access to recreation, services, increase crime, etc.)
4. Which geographic and/or cultural communities will carry the greatest burden if the proposed policy is implemented? Gain the most benefit?

Develop mechanisms to identify, evaluate and address adverse effects

A jurisdiction should, when the scope and impact of a proposed policy is quite significant, convene key stakeholders and develop additional impacts to be assessed. For example, a proposed shopping center might require additional assessments related to the displacement of local business, property values and the negotiating of local hiring agreements.

When adverse effects are identified, mechanisms for addressing these impacts should include at least the following components as outlined in federal government policies to advance environmental justice:

Identify the risk of discrimination early in the development of the program, policy or activity, so that positive corrective action can be taken.

In implementing this process, the following information should be obtained where relevant and appropriate:

- Population served and/or affected by race, color or national origin, and income level;
- Proposed steps to guard against disproportionately high and adverse effects on persons on the basis of race, color, or national origin;
- Present and proposed membership by race, color, or national origin, in any planning or advisory body that is part of the program, policy or activity.

Policies, programs and activities will be administered so as to identify and avoid discrimination and avoid disproportionately high and adverse effects on minority populations by:

- (1) identifying and evaluating environmental, public health, socio-cultural and economic effects of programs, policies and activities;
- (2) proposing measures to avoid, minimize and/or mitigate disproportionately high and adverse environmental and public health effects and interrelated social and economic effects, and providing offsetting benefits and opportunities to enhance communities, neighborhoods, and individuals affected by programs, policies and activities, where permitted by law and consistent with this rulemaking;
- (3) considering alternatives to proposed programs, policies, and activities, where such alternatives would result in avoiding and/or minimizing disproportionately high and adverse
- (4) impacts consistent with this rulemaking; and
- (5) eliciting public involvement opportunities and considering the results thereof, including soliciting input from affected minority and low-income populations in considering alternatives.

This process, though challenging, is a rewarding one. It can help bring about greater collaboration in policymaking, strengthen public support and input, and develop policymaking mechanisms that advance equity and fairness. An abbreviated list of organizations follow that can provide technical support to this end. Of course, there are many other groups out there with great resources. In addition, some of the groups on this list have expertise across a wide range of issues but were only listed under two or three categories at most. In addition, please feel free to contact the Applied Research Center if we can be of assistance.

RESOURCES (a very abbreviated list)

Land Use and Planning Equity

American Planning Association

Joanne Garnett, President
1776 Massachusetts Ave., NW
Washington, DC 20036-1904
Phone: (202) 872-0611
Fax: (202) 872-0643
Email: lulzd@planning.org
Website:
<http://www.planning.org/switchbd/apadirec.html>

Land Use Law Center

John R. Nolon, Director
Pace University School of Law
78 Broadway, White Plains, NY 10603
Phone: (914) 422-4262
Email: landuse@law.pace.edu
Website: <http://www.law.pace.edu/landuse/>
Useful Gateway for planning issues
Website: <http://www.cyburbia.org/>

Housing Policy Equity

National Low Income Housing Coalition (NLIHC)

Sheila Crowley, President
1012 Fourteenth Street NW, Suite 610
Washington, D.C. 20005
Phone: (202) 662-1530
Fax: (202) 393-1973
Website: <http://www.nlihc.org/>

National Housing Institute

Harold Simon, Executive Director
439 Main Street Suite 311
Orange, NJ 07050
Phone: (973) 678-9060
Fax: (973) 678-8437
Website: <http://www.nhi.org/>

Equity in Economic Development

Economic Policy Institute

Jeff Faux, President
1660 L Street NW
Suite 1200
Washington, DC 20036
Phone: (202) 775-8810
Fax: (202) 775-0819
Website: <http://www.epinet.org/>

Center for Community Change

Andrew Mott - Executive Director
1000 Wisconsin Avenue, NW
Washington, DC 20007
Phone: (202) 342-0519
Fax: (202) 333-5462
Website: <http://www.communitychange.org/>

Corporation for Enterprise Development (CFED)

Brian Dabson - President
777 North Capitol Street,
NE, Suite 410
Washington, DC 20002
Phone: (202) 408-9788
Fax: (202) 408-9793
Website: <http://www.cfed.org/>

Poverty & Race Research Action Council

Chester Hartman, Director
3000 Connecticut Ave, NW
Suite 200
Washington, DC 20008
Phone: (202) 387-9887
Fax: (202) 387-0764
Website:
<http://www.prrac.org/topics/resources/hungerresources.htm>

United for a Fair Economy

Chuck Collins
37 Temple Place 2nd Floor
Boston, MA 02111
Phone: (617) 423-2148
Website: <http://www.ufenet.org/>

Food Access

America's Second Harvest

Deborah Leff, President
116 S. Michigan Ave., #4
Chicago, IL 60603
Phone: (312) 263-2303
Website: <http://www.americanharvest.org/>

Poverty & Race Research Action Council

Chester Hartman, Director
3000 Connecticut Ave., NW, Suite 200,
Washington, DC 20008
Phone: (202) 387-9887
Fax: (202) 387-0764
<http://www.prrac.org/topics/resources/hungerresources.htm>

Equity and Fairness in Crime Policy/Law Enforcement

The Sentencing Project

Marc Mauer, Director
514 - 10th Street, NW
Suite 1000
Washington, DC 20004
Phone: (202) 628-0871
Fax: (202) 628-1091
Website: www.sentencingproject.org

Assessing Racial and Gender Impact

Applied Research Center

Gary Delgado, Director
3781 Broadway
Oakland, CA 94611
Phone: (510) 653-3414
Fax: (510) 653-3427
Website: <http://www.arc.org/>

Center for Women Policy Studies

Leslie R. Wolfe, President
2000 P St., NW, Suite 508
Washington, DC 20036
Phone: (202) 872-1770
Fax: (202) 296-8962

American Association of University Women (AAUW)

Sandy Bernard, President
1111 16th Street, NW
Washington, DC 20036-4873
Type: advocacy
Phone: (202) 785-7793
Fax: (202) 466-7618
Website: <http://www.aauw.org>

Ms. Foundation for Women

Marie C. Wilson
120 Wall Street, 33rd Floor
New York, NY 10005
Phone: (212) 742-2300
Fax: (212) 742-1653
Website: <http://www.ms.foundation.org/>

Institute on Race and Poverty

Gavin Kearney
415 Law Center
229 19th Avenue
Minneapolis, MN 55455
Phone: (612) 625-8071
Fax: (612) 624-8890
Website: www.umn.edu/irp

Disability Equity and Access Issues

National Council on Disability

Ethel D. Briggs, Executive Director
1331 F St., NW, Suite 1050
Washington, DC 20004-1107
Phone: (202) 272-2004
Fax: (202) 272-2022
TTY: (202) 272-2074
Website: <http://www.ncd.gov/>

National Association of Developmental Disabilities Councils

Charlotte Duncan, President
1234 Massachusetts Ave, NW, Suite 103
Washington, DC 20005
Phone: (202) 347-1234
Fax: (202) 347-4023
Website: <http://www.igc.apc.org/NADDC/>

Age Discrimination and Ageism

AARP

Joseph S. Perkins, President
601 E. St. NW
Washington, DC 20049
Phone: (800) 424-3410
Website: <http://www.aarp.org/>

Public School Equity

ERASE

Terry Keleher
3781 Broadway
Oakland, CA 94611
Phone: (510) 653-3414
Fax: (510) 653-3427
Website: <http://www.arc.org/>

Rethinking Schools

Bob Peterson
1001 E. Keefe Avenue, Milwaukee, WI 53212
Phone (800) 669-4192
Fax: (414) 964-7220
Website: <http://www.rethinkingschools.org>

National Coalition of Education Activists

PO Box 679
Rhinebeck, NY 12572
Phone: (914) 876-4580
Fax: (914) 876-4461
Website: <http://members.aol.com/nceaweb/>

Employment

Good Jobs First

Greg LeRoy
1311 L Street NW
Washington, D.C. 20005
Tel: (202) 737.4315
Fax: (202) 638.3486
Website: <http://www.ctj.org/itep/gfj.htm>

Labor/Community Strategy Center

3780 Wilshire Blvd, Suite 1200
Los Angeles, CA 90010
Phone: (213) 387-2000
Website: <http://www.igc.org/lctr/>

Center for Budget and Policy Priorities

Robert Greenstein, Executive Director
820 First Street, NE, Suite 510
Washington, DC 20002
Phone: (202) 408-1080
Fax: (202) 4088-1056
Website: <http://www.cbpp.org>

Jobs With Justice

501 Third Street NW
Washington DC 20001-2797
Phone: (202) 434-1106
Fax: (202) 434-1477
<http://www.jwj.org/corepage.htm>

Environmental Quality

Earth Island Institute

Robert Wilkinson, President
300 Broadway, Suite 28
San Francisco, CA 94133
Phone: (415) 788-3666
Fax: (415) 788-7324
Website: <http://www.earthisland.org/>

Greenpeace USA

Damu Smith
1436 U Street, NW
Washington, DC 20009
Phone: (202) 462-1177
Fax: (202) 462-4507
Website: <http://www.greenpeace.org>

The Preamble Center

Kim Freeman
2040 S Street, NW
Washington, D.C. 20009
Phone: (202) 265-3263.
Website: <http://www.preamble.org/>

Fair Budgeting

Center for Budget and Policy Priorities

Robert Greenstein, Executive Director
820 First Street, NE
Suite 510
Washington, DC 20002
Phone: (202) 408-1080
Fax: (202) 4088-1056
Website: <http://www.cbpp.org>

OMB Watch

Gary D. Bass, Executive Director
1742 Connecticut Avenue, NW
Washington, D.C. 20009
Phone: (202) 234-8494
Fax: (202) 234-8584 fax
Website: <http://www.ombwatch.org/>

Local Application of International Human Rights Policy

International Human Rights Law Group

Gay McDougall, Director
1200 18th Street, NW
Suite 602
Washington, DC 20036
Telephone: (202) 822-4600
Fax: (202) 822-4606
Website: <http://www.hrlawgroup.org/>

International Possibilities Unlimited

Dr. Deborah Robinson, Executive Director
5113 Georgia Ave., NW
Washington, DC 20011
Phone: (202) 723- 5622
Fax: (202) 723-5637
Website: www.ipunlimited.org

Transportation

Labor/Community Strategy Center

3780 Wilshire Blvd, Suite 1200
Los Angeles, CA 90010
Phone: (213) 387-2000
Website: <http://www.igc.org/lctr/>

Surface Transportation Policy Project

1100 17th Street, NW 10th Floor
Washington, DC 20036
(202) 466-2636
www.transact.org