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# WASHINGTON STATE OFFICE OF THE ATTORNEY GENERAL ENVIRONMENTAL JUSTICE IMPLEMENTATION PLAN

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August 2023  
DRAFT PLAN

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## Introduction

In 2021, the Washington State Legislature enacted the Healthy Environment for All (HEAL) Act.<sup>1</sup> The HEAL Act was driven by communities in Washington facing disproportionate environmental and public health burdens. The HEAL Act is Washington’s first state law to define environmental justice. The Act establishes a coordinated, state-wide approach to reduce environmental and health disparities in Washington and improve the health of Washington state residents by integrating environmental justice into state agency activities.<sup>2</sup> Seven specific state agencies are required to comply with the HEAL Act, and all other state agencies have the option to opt-into complying with the HEAL Act. In April 2021, Attorney General Ferguson opted the Attorney General’s Office (AGO) into complying with the HEAL Act, committing to implement all of the requirements and deliverables of the HEAL Act to the fullest possible extent.<sup>3</sup> Protecting the environment and promoting environmental justice is a part of the AGO’s 2022-2024 agency-wide strategic plan.<sup>4</sup>

The HEAL Act defines environmental justice as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, rules and policies. Environmental justice includes addressing disproportionate environmental and health impacts in all laws, rules, and policies with environmental impacts by prioritizing vulnerable populations and overburdened communities, the equitable distribution of resources and benefits, and eliminating harm.”<sup>5</sup>

One of the requirements of the HEAL Act is that agencies develop implementation plans. The implementation plan will guide how the agency applies environmental justice principles and considerations to its work and complies with the HEAL Act’s obligations.<sup>6</sup> Under the HEAL Act, agency implementation plans must include:

- a. Agency-specific goals and actions to reduce environmental and health disparities and for otherwise achieving environmental justice in the agency’s programs;
- b. Metrics to track and measure accomplishments of the agency goals and actions;
- c. Methods to embed equitable community engagement with, and equitable participation from, members of the public, into agency practices for soliciting and receiving public comment;
- d. Strategies to ensure compliance with existing federal and state laws and policies relating to EJ, including Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975;
- e. The community engagement plan required under the HEAL Act; and
- f. Specific plans and timelines for incorporating environmental justice considerations into agency activities as required.<sup>7</sup>

The AGO’s Environmental Justice Implementation Plan will guide the AGO in its work under the HEAL Act.<sup>8</sup> For purposes of HEAL Act implementation, the work of the AGO falls into two broad categories.<sup>9</sup> The AGO undertakes a variety of activities under the AGO’s own authority, including policy, contracting, convening, legislation, and enforcement actions undertaken under the Attorney General’s independent authority (AGO action). The also AGO provides legal advice and representation of state agency clients. For that work, the AGO will strive to advance environmental justice as far as possible, but, the state agency client is the decision maker and is ultimately responsible for their own HEAL Act implementation and compliance.

For AGO action under the HEAL Act, first, the Implementation Plan introduces environmental justice principles that the AGO will use as a foundation of shared beliefs and values when engaging in environmental justice and HEAL Act work. Second, the Implementation Plan outlines four goals to reduce environmental and health disparities and achieve environmental justice. Each goal is supported by specific agency actions to meet the goals, and each action is supported by metrics to track the progress and success in meeting the goals.<sup>10</sup> Third, the Implementation Plan refers to the AGO’s Environmental Justice Community Engagement Plan for methods to embed equitable community engagement and participation in agency actions. Fourth, the Implementation Plan points to internal policies as strategies for the AGO’s compliance with federal and state laws related to environmental justice.<sup>11</sup> Finally, the Implementation Plan provides a timetable for implementing the remaining HEAL Act deliverables at the AGO.<sup>12</sup>

The AGO will continue to evaluate our actions for additional opportunities to advance environmental justice and operate within the spirit of the HEAL Act. The AGO will update this plan as those opportunities come up, and will also incorporate feedback received from community, to the extent possible.

## **Environmental Justice Principles**

The AGO is committed to furthering environmental justice for all Washingtonians. The AGO’s Environmental Justice Principles are based off of the HEAL Act’s definition of environmental justice, the environmental justice principles developed at the 1991 First National People of Color Environmental Leadership Summit, and the environmental justice principles developed by Washington’s Environmental Justice Task Force in October 2020.<sup>13</sup> These environmental justice principles are a foundation of shared beliefs and values that inform our agency’s environmental justice and HEAL Act work.<sup>14</sup>

1. Environmental Justice uses an intersectional lens to address disproportionate environmental and health impacts by prioritizing highly impacted populations, equitably distributing resources and benefits, and eliminating harm.<sup>15</sup>

2. Environmental Justice requires focusing on racial equity and recognition of the ways in which systemic racism leads to disproportionate environmental impacts and health disparities in Black communities, Indigenous communities, communities of color (BIPOC communities), and low-income communities, and demands deliberate anti-racist action.<sup>16</sup>
3. Environmental Justice necessitates meaningful engagement with impacted communities about the development, implementation, and enforcement of laws, rules, and policies that impact the environment and health of Washingtonians, and requires ongoing transparent and accessible communication throughout, without compromising the integrity of the AGO’s legal work.<sup>17</sup>
4. Environmental Justice demands recognition that self-determination is a core principle to tribal sovereignty and the AGO tribal consent and consultation policy is integral in decision making that affects tribes, tribal lands, and tribal rights.<sup>18</sup>

### **Agency Goals, Actions, and Metrics to Reduce Environmental and Health Disparities and Advance Environmental Justice**

The AGO engages in a wide range of work, such as providing advice to state agencies, pursuing litigation on behalf of Washington and its people, providing the public educational information and resources on various topics, and engaging in policymaking and legislative proposals. The following goals, actions, and metrics were developed using the AGO’s independent authority and powers and consistent with its ethical obligations to advance environmental justice and reduce environmental and health disparities.<sup>19</sup>

**Goal 1: The AGO will use the Attorney General’s independent power and legal authority, where reasonable, to promote environmental justice and reduce environmental and health disparities.**

Action	The AGO’s EJ Policy staff will convene an internal Environmental Justice Work Group to collaborate on and advance environmental justice in agency activities, and to provide a forum to share community feedback on opportunities for AGO actions to further environmental justice.
Metrics	<ul style="list-style-type: none"> <li>• At least 8 meetings of workgroup per year.</li> <li>• Annual surveying of group as to meeting effectiveness and opportunities for improvement.</li> </ul>

Action	With support from the Policy team, the AGO’s Agriculture and Health Division will regularly convene staff advising client agencies implementing the HEAL Act to discuss questions from agencies and coordinate legal advice and interpretation of state and federal laws related to environmental justice, including the HEAL Act, when feasible. <sup>20</sup>
Metrics	<ul style="list-style-type: none"> <li>• At least 8 meetings of the subgroup per year.</li> </ul>

	<ul style="list-style-type: none"> <li>• Action taken by client agencies based on consistent interpretation and advice provided by the AGO, as appropriate.</li> <li>• Agency questions answered and issues identified across agencies.</li> </ul>
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Action	The AGO’s EJ Policy staff will work with the AGO internal training unit to develop education and training for AGO employees on environmental justice.
Metrics	<ul style="list-style-type: none"> <li>• Minimum of 2 educational opportunities, including CLEs, seminars, and trainings, annually on environmental justice topics, such as the use of the Washington State Health Disparities Map, components of the HEAL Act, environmental justice activities by the federal government, community engagement, racial equity, etc.</li> <li>• Surveying of participants to measure staff satisfaction and effectiveness of CLEs, seminars, and trainings.</li> </ul>

Action	The AGO’s EJ Policy staff will work with the AGO’s legislative team to advance environmental justice through our legislative agenda.
Metrics	<ul style="list-style-type: none"> <li>• Ongoing conversations with community leaders, members and organizations to identify opportunities for legislative and policy action to address environmental justice topics and issues.</li> <li>• As feasible, proposals for agency request legislation related to environmental justice.</li> <li>• As feasible, support community-driven legislation related to environmental justice.</li> </ul>

Action	The AGO’s EJ Policy staff will work with the AGO’s Financial Services Division to identify opportunities to incorporate EJ considerations into AGO budget development, requests, and expenditures.
Metrics	<ul style="list-style-type: none"> <li>• Incorporation of EJ analysis into the equity analysis of AGO decision packages.</li> <li>• Development of budget impact analysis document.</li> </ul>

**Goal 2:** The AGO will conduct community outreach and engagement on environmental justice issues, when it can do so consistent with the Rules of Professional Conduct for attorneys.<sup>21</sup>

Action	AGO EJ Policy staff will convene a group consisting of both community members and organizations and AGO staff working on environmental justice issues to provide a dedicated space to center the voices of overburdened communities and vulnerable populations to share ongoing and emergent EJ efforts and issues impacting communities, identify opportunities for collaboration or action under the AGO’s independent authority, and share the AGO’s progress on advancing environmental justice.
Metrics	<ul style="list-style-type: none"> <li>• Creation of stakeholder group and first meeting in 2023.</li> </ul>

	<ul style="list-style-type: none"> <li>• At least 4 meetings a year, beginning in 2024.</li> <li>• Ongoing consultation with stakeholder group about meeting group needs, and incorporation of stakeholder feedback to adjust meeting format.</li> <li>• Identification of ongoing and emerging environmental justice issues, impacts, and efforts on communities.</li> <li>• Collaboration and/or action resulting from discussions with stakeholders.</li> </ul>
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Action	AGO EJ Policy staff will establish and maintain relationships with external community partners from overburdened communities and vulnerable populations to share information about existing efforts to combat environmental and health disparities and environmental justice issues.
Metrics	<ul style="list-style-type: none"> <li>• Establishment of new community relationships.</li> <li>• Frequent communication with community partners.</li> <li>• Identification of ongoing and emerging environmental justice issues, impacts, and efforts on communities.</li> <li>• Listening to and incorporating community voices and feedback into AGO actions.</li> <li>• Collaboration and/or action resulting from discussions with community.</li> </ul>

**Goal 3:** Consistent with existing AGO policies, the AGO will continue to expand language access in our activities and services to provide accurate, timely, and effective communication in languages other than English, at no cost to constituents.<sup>22</sup>

Action	AGO EJ Policy staff will develop public-facing documents containing environmental justice information and resources in plain language and translated into the top 17 languages spoken in Washington State. <sup>23</sup> If the document will be used in a specific region of the state or prepared for or at the request of a particular community, AGO EJ Policy staff will work with community leaders to determine the appropriate languages for translation. <sup>24</sup>
Metrics	<ul style="list-style-type: none"> <li>• Develop public-facing documents on environmental justice in plain language.</li> <li>• All public-facing documents related to environmental justice translated into the top 17 languages spoken in Washington State.</li> <li>• Additional regionally-specific translations of environmental justice documents as requested by community provided within 10 days of request.</li> </ul>

Action	AGO EJ Policy staff will strive to provide language interpretation services, including American Sign Language (ASL) interpretation, at public environmental justice meetings upon prior request.
Metrics	<ul style="list-style-type: none"> <li>• Develop simple, streamlined and accessible process for the public to request language interpretation services.</li> </ul>

	<ul style="list-style-type: none"> <li>• Availability of language interpretation request and language interpretation for public meetings.</li> </ul>
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Action	AGO EJ Policy staff will strive to provide closed captioning and, upon request, transcripts for virtual public meetings related to environmental justice, including town halls, task force meetings, roundtable meetings, and other types of public meetings. <sup>25</sup>
Metrics	<ul style="list-style-type: none"> <li>• Develop simple, streamlined and accessible process to request transcripts of public virtual meetings.</li> <li>• Closed captioning and transcripts standardized for AGO virtual meetings.</li> </ul>

**Goal 4: The AGO will work with Tribes and Native American communities on environmental justice issues and environmental and health disparities.**

Action	The AGO will use its Tribal Consultation and Consent Policy <sup>26</sup> to provide Tribes with an opportunity for consultation on the AGO’s Environmental Justice Implementation Plan, the Environmental Justice Community Engagement Plan, and the designation of additional significant agency actions that affect tribal rights and interests in tribal lands, as required by the HEAL Act.
Metrics	<ul style="list-style-type: none"> <li>• Tracking consultations with Tribes on EJ issues.</li> <li>• Feedback from Tribes on agency EJ actions.</li> <li>• Partnerships with Tribes to address EJ issues.</li> </ul>

Action	The AGO will follow the HEAL Act Native American Communities Engagement Guide, when completed, to engage with Native American communities on environmental justice issues.
Metrics	<ul style="list-style-type: none"> <li>• Tracking engagement with Native American communities on EJ issues.</li> <li>• Partnerships with Native American communities and organizations serving American Indian and Alaska Natives to address EJ issues.</li> </ul>

**Embedding Equitable Community Engagement and Participation<sup>27</sup>**

As a law office, in order to protect and maintain attorney-client privilege and confidentiality and abide by the Rules of Professional Conduct, the AGO does not solicit public comment for legal work it does for state agency clients.<sup>28</sup> The AGO does solicit, and receives, public comment for bodies of work assigned to the AGO Policy Unit by the Legislature, such as taskforces, model policies, and policy and legislative recommendations. When engaging in policy and legislative environmental justice work, the AGO EJ Policy staff will use its Environmental Justice Community Engagement Plan to solicit, receive, and incorporate public comments and feedback from community, specifically overburdened communities and vulnerable populations who bear the greatest burden of environmental and health disparities.



On July 1, 2022, the AGO released a draft Environmental Justice Community Engagement Plan.<sup>29</sup> The draft Environmental Justice Community Engagement Plan outlines methods to embed, support and facilitate equitable community outreach and participation with members of the public, including the meaningful and direct involvement of vulnerable populations and overburdened communities.<sup>30</sup>

The draft Environmental Justice Community Engagement Plan will be updated with guidance from the Environmental Justice Council<sup>31</sup> and feedback from community, and will undergo tribal consultation per the requirements of the HEAL Act and the AGO’s Tribal Consultation and Consent Policy.<sup>32</sup> Periodically thereafter, the Environmental Justice Community Engagement Plan will be updated to ensure it best reflects community needs and feedback.<sup>33</sup> The plan will also be updated to include and reference guidance and resources developed by the AGO’s Racial Equity Unit.

## Strategies for Compliance with State and Federal Laws Related to Environmental Justice

Throughout the course of implementing and achieving environmental justice, the AGO is firmly committed to compliance with state and federal laws relating to environmental justice, including the Civil Rights Act of 1964, the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and the Americans with Disabilities Act of 1990.<sup>34</sup> Commitments to non-discrimination and equal access are enforced through AGO Personnel Policies I.32 – Non Discrimination/Equal Opportunity (Affirmative Action)<sup>35</sup> and I.43 – Reasonable Accommodation of Persons with Disabilities.<sup>36</sup> AGO employees can file complaints for violations of agency non-discrimination policies through the procedure outlined in AGO Policy I.09 – Discrimination Complaint & Policy Procedure.<sup>37</sup>

## Timelines and Plans for Incorporating Environmental Justice into Agency Activities<sup>38</sup>

In complying with the HEAL Act, the AGO is committed to implementing all deliverables within the HEAL Act to achieve environmental justice.<sup>39</sup> To the best of our ability, the AGO is committed to implementing the remaining HEAL Act deliverables per the timeline of the legislation, though, due to the unique nature of the AGO as an opt-in agency with non-regulatory functions, may take extra time to develop and implement HEAL Act deliverables.

<b>Legislative Deadline</b>	<b>Deliverable</b>	<b>Current Status for the AGO</b>
July 1, 2023	Environmental Justice Assessments on Significant Agency Actions <sup>40</sup>	DRAFT – the AGO has determined that the agency request legislation is the only applicable significant agency action that the agency engages in and requires an environmental justice assessment (EJA). Tribes have requested consultation, and the AGO

		is committed to honoring these requests. The AGO’s EJA will not be finalized until consultation with Tribes and outreach with communities facing environmental injustices takes place and feedback is incorporated into the AGO’s EJA.
	Publish Significant Agency Actions on Website and Notify Washington State Register of Significant Agency Actions <sup>41</sup>	COMPLETED – the AGO has determined that agency request legislation is the only applicable significant agency action that the agency engages in.
	Environmental Justice Principles and Considerations in Financial Actions <sup>42</sup>	COMPLETED – the AGO has determined that the fiscal actions and activities outlined in the HEAL Act are not applicable to the agency due to the nature of the work that the AGO engages in.
September 1, 2024	Annual Dashboard Report with Office of Financial Management <sup>43</sup>	Not yet started.
July 1, 2025	Define Additional Significant Agency Actions <sup>44</sup>	IN PROGRESS – the AGO is evaluating which, if any, of our agency actions may rise to the statutory definition of “additional significant agency actions” under the HEAL Act.

## Endnotes

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<sup>1</sup> [RCW 70A.02.](#)

<sup>2</sup> [RCW 70A.02.005\(1\).](#)

<sup>3</sup> [RCW 70A.02.030.](#)

<sup>4</sup> AGO Strategic Plan 2022-2024, “Protect the People,”

[http://ace/InsideAGO/\\_layouts/15/WopiFrame.aspx?sourcedoc=/InsideAGO/Admin/AboutTheAGO/Strategic\\_Plan\\_2022-24.pdf&action=default](http://ace/InsideAGO/_layouts/15/WopiFrame.aspx?sourcedoc=/InsideAGO/Admin/AboutTheAGO/Strategic_Plan_2022-24.pdf&action=default).

<sup>5</sup> [RCW 70A.02.010\(8\).](#)

<sup>6</sup> [RCW 70A.02.040\(1\).](#)

<sup>7</sup> [RCW 70A.02.040\(2\).](#)

<sup>8</sup> [RCW 70A.02.040\(1\).](#)

<sup>9</sup> <https://www.atg.wa.gov/roles-office>.

<sup>10</sup> [RCW 70A.02.040\(2\)\(a\)-\(b\).](#)

<sup>11</sup> [RCW 70A.02.040\(2\)\(c\)-\(e\).](#)

<sup>12</sup> [RCW 70A.02.040\(2\)\(f\).](#)

<sup>13</sup> [WA State Environmental Justice Task Force Final Report](#)

<sup>14</sup> [RCW 70A.02.040\(1\).](#)

<sup>15</sup> [WA State Environmental Justice Task Force Final Report, “Recommended Statewide EJ Definition,” p. 6.](#)

<sup>16</sup> [WA State Environmental Justice Task Force Final Report](#), p.14-15. Also note [AGO Anti-Racist Commitment](#): The Office of the Attorney General is committed to recognizing, addressing, and eradicating all forms of racism within the scope of its work and operations. Conversations about race require courage, respect, and compassion. We recognize that when we enter into these conversations, we may not always be comfortable and may need to lean into the discomfort. As an agency that strives to be anti-racist, it is our goal to identify, discuss, and challenge racial inequity in the workplace and the impact it has on our employees, and, within our authority, combat racism that impacts the people of the State of Washington.

<sup>17</sup> [RCW 70A.02.010\(8\); GARE-Racial Equity Toolkit.pdf \(racialequityalliance.org\)](#), p.9.

<sup>18</sup> [Tribal Consent & Consultation Policy | Washington State.](#)

<sup>19</sup> The Attorney General’s Office is bound by duties to protect privilege and confidentiality, and abide by specific ethics rules, as required by the [Rules of Professional Conduct](#).

<sup>20</sup> AGO Strategic Plan 2022-2024, “Serve the State,”

[http://ace/InsideAGO/\\_layouts/15/WopiFrame.aspx?sourcedoc=/InsideAGO/Admin/AboutTheAGO/Strategic\\_Plan\\_2022-24.pdf&action=default](http://ace/InsideAGO/_layouts/15/WopiFrame.aspx?sourcedoc=/InsideAGO/Admin/AboutTheAGO/Strategic_Plan_2022-24.pdf&action=default).

<sup>21</sup> In enforcement of actions under the Attorney General’s independent authority, engagement on some matters may be limited or restricted by requirements to protect privilege and confidentiality and follow the [Rules of Professional Conduct](#).

<sup>22</sup> AGO Language Access Plan, “Meaningful Access,” p. 2, February 2016.

<sup>23</sup> The AGO’s website translates into the top 17 languages spoken in Washington, with 18 translations available to account for the difference in characters between traditional Chinese and simplified Chinese, <https://www.atg.wa.gov/languages>.

<sup>24</sup> AGO Language Access Plan, “Identification, Translation, and Publication of Vital Documents,” p. 4, February 2016.

<sup>25</sup> AGO Environmental Justice Community Engagement Plan, “Language and Translation Access,” p. 14, July 2021, <https://agportal-s3bucket.s3.amazonaws.com/AGO%20EJ%20Community%20Engagement%20Plan%207.1.2022.pdf>.

<sup>26</sup> AGO Tribal Consent and Consultation Policy, <https://www.atg.wa.gov/tribal-consent-consultation-policy>.

<sup>27</sup> [RCW 70A.02.040\(2\)\(c\), \(e\).](#)

<sup>28</sup> American Bar Association, Rules of Professional Conduct,

[https://www.americanbar.org/groups/professional\\_responsibility/publications/model\\_rules\\_of\\_professional\\_conduct/model\\_rules\\_of\\_professional\\_conduct\\_table\\_of\\_contents/](https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/model_rules_of_professional_conduct_table_of_contents/).

<sup>29</sup> AGO draft Environmental Justice Community Engagement Plan, <https://agportal-s3bucket.s3.amazonaws.com/AGO%20EJ%20Community%20Engagement%20Plan%207.1.2022.pdf>.

<sup>30</sup> [RCW 70A.02.040\(2\)\(c\)](#).

<sup>31</sup> [RCW 70A.02.050\(3\)](#).

<sup>32</sup> [RCW 70A.02.100\(1\)\(b\)](#).

<sup>33</sup> [RCW 70A.02.050](#).

<sup>34</sup> [RCW 70A.02.040\(2\)\(d\)](#).

<sup>35</sup> AGO Policy I.32 – Non-Discrimination/Equal Opportunity (Affirmative Action),  
[https://insideago/default.aspx?content=14523&name=I.32-Non-Discrimination%2fEqualOpportunity\(AffirmativeAction\)](https://insideago/default.aspx?content=14523&name=I.32-Non-Discrimination%2fEqualOpportunity(AffirmativeAction)).

<sup>36</sup> AGO Policy I.43 – Reasonable Accommodation of Persons with Disabilities,  
<https://insideago/default.aspx?content=579&name=I.43-ReasonableAccommodationofPersonsWithDisabilities>.

<sup>37</sup> AGO Policy I.09 – Discrimination Complaint Policy & Procedure,  
<https://insideago/default.aspx?content=150&name=I.09-DiscriminationComplaintPolicy%26Procedure>.

<sup>38</sup> [RCW 70A.02.040\(2\)\(f\)](#).

<sup>39</sup> [RCW 70A.02.040\(2\)\(f\)](#).

<sup>40</sup> [RCW 70A.02.060](#).

<sup>41</sup> [RCW 70A.02.060\(3\)](#).

<sup>42</sup> [RCW 70A.02.080](#).

<sup>43</sup> [RCW 70A.02.090](#).

<sup>44</sup> [RCW 70A.02.060\(2\)](#).