

The Washington State HEAL Act and its Environmental Justice Council

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The Healthy Environment for All (HEAL) Act was established in 2021, solidifying the place of environmental justice in the policies of Washington State Agencies. This Act also created the Environmental Justice Council (EJC), made up of 16 members who are community, youth, tribal, and agency representatives. The goals of this council are to work with the agencies under the HEAL Act to advise them and the governor and legislation on environmental justice concerns. The purpose of this research was to investigate how the EJC has been successful in accomplishing their goals, how they made progress in addressing environmental injustice in Washington State, and to find what barriers have made making this progress difficult. Looking at the minutes from the EJC's meetings over the last year, as well as the yearly legislative report from 2023 and Front and Centered's HEAL progress report it is evident that their goals as assigned by the HEAL Act have been unable to be fully accomplished, leading to there being little progress in addressing environmental injustice. Some of the barriers to the EJC being able to try to meet their goals come from the limited timeline, having a quick turnaround from the council's first meeting to the first deadlines combined with the volunteer nature of these positions meant there were limited opportunities to do the work they would need to be doing. Other barriers to the success of the EJC are things like the definitions within the act itself and the politics that come with these positions. The failures of the EJC in Washington State matter to other states who are establishing similar councils to address environmental injustice, this can

demonstrate ways that they can adjust their approaches to designing the councils and their responsibilities.

I. Background

The passing of the Healthy Environment for All (HEAL) Act in 2021 by the Washington State legislature was a landmark moment for the enshrinement of environmental justice in the policies of the state. This applies to covered agencies, which were defined in the Act as “...the departments of ecology, health, natural resources, commerce, agriculture, and transportation, the Puget Sound partnership, and any agency that opts to assume all of the obligations of chapter 314, Laws of 2021 pursuant to RCW [70A.02.030](#)” (HEAL Act, 2021). Under the Act these agencies are meant to implement environmental justice into their policies and ways of engaging with communities (Western Environmental Law Center, 2021). The Department of Health is required to maintain and develop the mapping tool showing environmental health disparities, and each agency must establish communication and collaboration with federally recognized tribal governments. Along with these regulations for the agencies the HEAL Act mandated the creation of the Environmental Justice Council (EJC). The purpose of the EJC was to create a council of 16, originally 14, made up of community, youth, and tribal representatives, environmental justice experts, and agency representatives that would be able to provide guidance on the agency’s environmental justice approaches (*Environmental Justice Council | Healthier Washington Collaboration Portal*, n.d.). The members of the council must apply to serve on this council, and from there they are appointed by the governor. The Act specifies that the members of the council

must be "...persons who are well-informed regarding and committed to the principles of environmental justice and who, to the greatest extent practicable, represent diversity in race, ethnicity, age, and gender, urban and rural areas, and different regions of the state" (HEAL Act, 2021).

When the EJC was created they were given a set of goals and a timeline in which to accomplish these goals, and since then more responsibilities have been given to the council under the Climate Commitment Act which is meant to be working to cap and reduce greenhouse gas emissions in Washington (*Climate Commitment Act - Washington State Department of Ecology*, n.d.). The group was meant to begin meeting on January 1st, 2022, create community engagement plans by July of 2022, and create guidance on the implementation of environmental justice for agencies strategic plans by January 2023 (*Environmental Justice Council Legislative Report 2023*, 2023). Other responsibilities of the EJC include advising on environmental justice assessments, actions that advance environmental justice, creating guidance on identifying overburdened communities, provide public comment periods at each of their meetings, and giving recommendations on the inclusion of environmental justice in laws, budgets, and other legislation.

II. Introduction

The purpose of this paper is to investigate how, in the two years since the Environmental Justice Council was established, they have been successful in accomplishing the goals set out for them in the HEAL Act, how they have made progress in addressing environmental injustice in Washington State, and what barriers have made making progress in addressing these issues

difficult. Looking at this example of an environmental justice council can help in the creation of future councils and environmental justice legislation in other states.

III. Findings

There are different definitions and metrics for what counts as a success. For this assessment of the EJC I looked at both their own 2023 progress report and meeting minutes, as well as the HEAL progress report from Front and Centered. Front and Centered is a coalition made up of different groups led by communities of color who are working to address environmental injustice in Washington state (*About Us*, 2023). By both the metric of whether or not they have achieved the goals that were laid out for them under this act, and whether or not they have made an impact in the state of environmental injustice in any way, it appears that the EJC has been unable to fully accomplish said goals, and has not made a broader impact on the issue of environmental injustice in Washington State.

In their required 2023 legislative report, the EJC states that while they have made progress on some of their obligations and accomplished a few of their goals, they have not yet met other requirements of the HEAL Act, despite earlier deadlines (*Environmental Justice Council Legislative Report 2023*, 2023). The goals they did accomplish were: creating guidance for community engagement within environmental justice work being done by the HEAL Act agencies, creating guidance for environmental justice assessments being done by these same agencies. These plans were originally supposed to have been completed by July 2022, but ended up not being started on until October of that year and were not finalized until June 2023 (*Environmental Justice Council Legislative Report 2023*, 2023). The Council also adopted their statement on how agencies could use the Environmental Health Disparities Map in decision

making about which communities to prioritize for environmental justice issues (*Environmental Justice Council Legislative Report 2023*, 2023, pg. 16). Some of these actions, such as their budget recommendations, were in progress or, such as the guidance on Environmental Justice Assessments, were adopted with the idea that it would change over time (*Environmental Justice Council Legislative Report 2023*, 2023, pg.14). However, the EJC had several obligations that they were unable to fulfill despite their timeline which had required them to be done at much earlier dates. One of council’s deadlines was to have established guidelines for the HEAL Act agencies strategic plans by January 2023. One of the council’s yearly deliverables is to release a legislative report on the council’s actions over the year. However, in 2022 they were unable to accomplish this.

Goals	Progress
Creating guidance on community engagement for agencies	Met goal, late
Creating guidance on environmental justice assessments	Met goal, late
Adopted statement on use of Environmental Health Disparities Map	Met goal
Creating guidance for agencies strategic plans	Not met
2022 legislative report	Not met
Budget Recommendations	In Progress

Table 1. Summary of the EJC’s progress in meeting set goals

Front and Centered’s report on the HEAL Act’s progress from early 2023 describes how one of the EJC’s responsibilities, providing guidance for agencies on their HEAL Act responsibilities was meant to be accomplished by June of 2022. However, at the time of their progress report it

had yet to be finalized. This progress report also specifies that the council had difficulty getting off the ground when it was first established as the appointment of several council members didn't happen until later, making it so that a lot of the necessary aspects of a council such as bylaws and an leadership committee were unable to go through until October and December 2022 respectively (*Front and Centered*, 2023, pg.15).

IV. Barriers to Success

One of the things impacting the EJC was the unrealistic timeline they were given. The planned start date of the council was January 1st, 2022, yet the actual first meeting didn't take place until that April because with the long wait to get enough members for the council they were unable to meet (*Healthy Environment For All (HEAL) Act - Front and Centered*, 2023). This set them back on the timeline far enough that the dates for some of the Council's first deliverables had come and gone before they had any kind of base to start working on these more complex demands, and not just setting up the bylaws and leadership for the council. The addition of new responsibilities through the Climate Commitment Act made this timeline even shorter, adding to the already full workload of the Council. This combined with the difficulties that came with the lack of support for the members there was typically at least one representative absent from each of the meetings, making it hard to make much progress. One of the recommendations from the Council in their 2023 legislative report was for the Washington state legislature to rethink the timelines they had given the EJC (*Environmental Justice Council Legislative Report 2023*, 2023), giving them significantly more time to implement their mandates as the previous timelines placed a lot of stress on the council to get the deliverable out at in an unreasonable pace.

The EJC also faced a barrier in defining aspects of environmental justice. In particular, the definition used for overburdened communities limits how the council can point attention to the communities that need it because the way that definition is laid out in the HEAL Act makes it very difficult to understand or use to point to specific groups that need to be prioritized. The HEAL Act defines overburdened communities as, "...a geographic area where vulnerable populations face combined, multiple environmental harms and health impacts, and includes, but is not limited to, highly impacted communities as defined in RCW [19.405.020](#)" (HEAL Act, 2021). In comparison, the way that New Jersey uses the term makes it much easier to use and point to specific communities and areas making mapping much easier (Hill, 2023). The New Jersey definition being "...any census block group, as determined in accordance with the most recent United States Census, in which: **(1)** at least 35 percent of the households qualify as low-income households;**(2)** at least 40 percent of the residents identify as minority or as members of a State recognized tribal community; or**(3)** at least 40 percent of the households have limited English proficiency" (N.J. Stat. § 13:1D-158). Front and Centered also has their own way of referring to what the HEAL Act has termed 'overburdened communities', instead referencing frontline communities, and they discuss how the criteria for a definition of an overburdened community had yet to be fully defined, which adds to the complexity of offering recommendations on how to address the environmental injustice affecting them.

The politics behind the scenes within the EJC have also served as a barrier to achieving their goals; as stated in the Councils' legislative report, "It takes time for Council Members, themselves, to come together and form trusting relationships and common understanding with each other. It takes time for the Council and agencies to develop partnerships based on a foundation of trust" (*Environmental Justice Council Legislative Report 2023*, 2023, pg.20).

Councils like the EJC need to have a baseline of bylaws and an established leadership to help with decision making, and the slow start prevented that from happening. This also hampers the ability of the council to work together without too much conflict. Tribal Representatives and likely other community representatives also need time to bring the proposals back to their communities before committing to ideas sometimes, which can connect to the timelines as it takes up more time that could be spent working on achieving their goals. An important part of the politics of the EJC is whether the legislature even listens to the recommendations coming from them. Based on the response to the council's recommendation on the merging of carbon markets with California and Quebec being for the governor to continue that path when they had opposed it seems as though their guidance is not being considered (Cornfield, 2023).

Additionally, the short terms for representatives, two years for youth and four years for others, makes it harder for the council members to build those necessary relationships (*Governor Jay Inslee | Washington State*, n.d.).

There is also an issue with the government providing assistance to support the EJC. The council is mainly volunteer work as the council is not paid and is made up of mostly community members with other responsibilities. This limits when and how often they can meet, making it harder for the EJC to make progress on their projects. This lack of assistance also shows up for the community representatives in that they cannot have an alternate who attends the meeting in their place, which for people who are not getting paid to be there, and who have other responsibilities beyond the council. However, tribal representatives are permitted to send alternates (*Healthy Environment For All (HEAL) Act - Front and Centered*, n.d.). Because of this, more of the community representatives will be absent from the meetings and be unable to cast their votes, which might cause friction between them and the tribal representatives. In the

EJC meeting notes from August 25th 2023, several unnamed council members described their difficulties in balancing their time and priorities, supporting the need to create a policy solution to address this.

The many different responsibilities given to the EJC under the HEAL Act are already a big commitment for them, and they have faced plenty of barriers towards those goals. However, with the addition of new assigned responsibilities from the Climate Commitment Act the councils focus was pulled away from their original goals. As Front and Centered wrote in their progress report, “While the EJ Council was formed to monitor and guide implementation of HEAL, other legislation, primarily the Climate Commitment Act (CCA) that sought to link up to HEAL, pulled Council attention away from their HEAL responsibilities” (*Front and Centered*, 2023, pg.16). This has spread out the focus of the EJC, keeping them from accomplishing the things that they are meant to be doing. Both the EJC and Front and Centered have recommended that legislation does not add more responsibilities to the EJC beyond those given to them under the HEAL Act.

V. Conclusion

The recent implementation of the HEAL Act through the Environmental Justice Council has been affected by several barriers: from overestimated timelines, complex and ineffectual definitions, the politics between members, a lack of support for the voluntary unpaid members of the council, and the addition of responsibilities beyond the scope of what the HEAL Act designated for the EJC keeping them from focusing on their original purpose in addressing environmental injustices. However, this lack of success and the barriers that it stems from can serve a greater purpose than simply demonstrating where Washington State has fallen short. This case study can also serve as an example for how other states or even the federal government

might implement more effective environmental justice councils as more people recognize the need to include communities and indigenous tribes in making decisions about addressing environmental injustice.

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