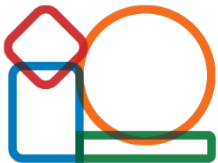


Summary of the Office of the Attorney General's Comment Letters



**SB 1000
EQUITY
TOOLKIT**

DATE
June 2023



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This Summary of the Office of Attorney General’s Comment Letters on environmental justice elements was produced by the San Bernardino County Transportation Authority (SBCTA) and the San Bernardino Council of Governments (SBCOG) as part of their [SB 1000 Toolkit](#).





EXECUTIVE SUMMARY

Overview

The Office of the Attorney General (OAG) works to ensure local governments comply with Senate Bill 1000 (SB 1000), or the Planning for Healthy Communities Act of 2016. As part of its monitoring efforts, the OAG submits comment letters to local jurisdictions in an effort to promote effective environmental justice planning at the local level. The OAG has not sued a local government for failure to comply with SB 1000. However, as a law enforcement agency, they have the authority to do so if a local jurisdiction does not meet the minimum requirements to comply with the law. The OAG most recently exercised its enforcement authority in December 2021 when it entered into [a settlement agreement](#) with the City of Huntington Park after the City had failed to meet the SB 1000 requirements when it adopted its 2030 General Plan¹. In the agreement, the two parties establish the requirements and deadline for the City to prepare and adopt its Environmental Justice Element in compliance with SB 1000.

Since 2018, the Attorney General has submitted over a dozen comment letters to cities and counties to promote SB 1000 compliance in their general plans. Through these letters, the OAG has clarified and expanded the SB 1000 legal requirements and provided local planners with assistance and guidance to comply with this law and develop meaningful environmental justice policies.

This document provides a summary of all SB 1000 comment letters submitted as of Spring 2023 and organizes it by Example Practices. Below is the list of comment letters reviewed:

- 03/29/22 – [Fresno County](#)
- 03/04/21 – [City of Huntington Park](#)
- 02/24/21 – [Riverside County \(second letter\)](#)
- 10/16/20 – [City of Santa Ana](#)
- 06/16/20 – [Tulare County](#)
- 01/23/20 – [City of Kerman \(second letter\)](#)
- 12/23/19 – [City of Placentia](#)
- 08/15/19 – [San Bernardino County](#)
- 08/02/19 – [Ventura County](#)
- 05/09/19 – [City of Kerman](#)
- 11/13/18 – [City of Modesto](#)
- 11/13/18 – [City of Fontana](#)
- 10/24/18 – [Riverside County](#)

¹ Office of the Attorney General. December 13, 2021. Attorney General Bonta Announces Settlement with Huntington Park to Address Environmental Justice in Local Land Use Planning. Retrieved from: <https://oag.ca.gov/news/press-releases/attorney-general-bonta-announces-settlement-huntington-park-address>.



Example Practices

The following table provides a high-level summary of the environmental justice (EJ) example practices identified in the OAG comment letters.

Example Practice	Description
1. Completeness	<p>Every component of an EJ Element, or set of related goals, policies, and objectives² integrated in other General Plan elements (collectively, “EJ policies”), must be complete, including:</p> <ul style="list-style-type: none"> Accounting for health impact and not simply pollution sources and exposure; and Identifying EJ policies and programs covering the six topic areas that are strong and concrete, sufficient to reduce unique and compounded health risks. Ensuring community engagement is inclusive and empowering in every step of the process, from data analysis to policy development.
2. Specificity	<p>The Element or related EJ policies must be specific in the following ways:</p> <ul style="list-style-type: none"> Clearly and rigorously identifying Priority Equity Communities³ and documenting the methodology and location in the Element or General Plan. Identify health risks/impacts in each Priority Equity Community individually and be specific about exact locations of pollution sources. Preparing EJ policies and programs specific to each EJ issues in each Priority Equity Community, and about how to address these issues.
3. Community Engagement	<p>Community engagement must be front and center and embedded throughout the process.</p>
4. Full Compliance	<p>The Element or related EJ policies must ensure full compliance with SB 1000, meeting all the requirements, such as developing EJ policies and programs that are specific to Priority Equity Communities and reduce pollution exposure and health risks in them.</p>
5. Consistency	<p>The Element or related EJ policies must ensure consistency so that there is no contradiction and everything is equally detailed and strong.</p>

² A **goal** states the envisioned end state for the community. An **objective** establishes the level of performance to measure goal implementation, often at a time period shorter than a goal. A **policy** is a position statement to support a goal and provide guidance to decision-makers when reviewing development proposals or implementing new initiatives. An **action** sets a program or strategy to implement a policy and fulfill a goal. For complete definitions, please refer to the “EJ Element Model Language” resource part of the SB 1000 toolkit.

³ A **Priority Equity Community** is a “Disadvantaged Community”, as defined in Senate Bill (SB) 1000. Please refer to Question 5 in the SB 1000 Primer document for a complete definition of a Priority Equity Community, and please refer to the SB 1000 Toolkit’s “Data Tools” webpage for a full analysis of Priority Equity Communities in the county.





EXAMPLE PRACTICES

1. Completeness

Health Impact

Example Practice #1

When considering pollution sources and exposure, the jurisdiction must also account for the burden this pollution has on people’s health.

Letter Examples:

- The City of Fontana considered the impact of high traffic volume on localized concentrations of air pollution, but as pointed out in the OAG letter to the City in 2018, it did not consider the greater pollution burdens caused by heavy-duty diesel-truck traffic.

Environmental Justice Policies

Example Practice #2

The jurisdiction must include all, not just a selection of, SB 1000 component requirements:

- Reduce pollution exposure, including improving air quality.
- Promote food access.
- Promote physical activity, such as access and proximity to parks, open space and other recreation facilities, and walking and biking for commuting and recreational purposes.
- Promote public facilities, such as community centers, libraries, public transit, parks and recreation facilities, safe drinking water, wastewater services, health care services, internet access, and infrastructure for disaster responses.
- Promote safe and sanitary homes, such as location, availability, accessibility, quality, affordability, and lead in housing.
- Promote civic engagement.

Letter Examples:

- The City of Kerman received a second letter from OAG in 2020 that indicated it had not included “safe and sanitary homes” and “physical activity” in its EJ policies and programs.
- The City of Modesto received a letter from OAG in 2018 because it had not addressed EJ policies and programs by each of these components.



- Fresno County’s General Plan, per OAG letter in 2022, “does not ‘prioritize improvements and programs that address the needs of the Disadvantaged Communities,’ as SB 1000 demands.”
- OAG let Ventura County know in its letter in 2019 that it was lacking EJ policies and programs meeting the “safe and sanitary homes” component.

Example Practice #3

EJ policies and programs must be sufficient to reduce the unique and compounded health risks in Priority Equity Communities as required by SB 1000.

Letter Examples:

- OAG wrote in its letter to San Bernardino County in 2019 that its EJ policies and programs were not sufficient to meet this requirement and that they needed to make these reductions affirmatively and prevent future pollution exposure.

Example Practice #4

It is not sufficient to say that you will prepare an assessment or pursue funding. Policies need to be stronger and more concrete.

Letter Examples:

- From OAG’s letter to San Bernardino County in 2019:
 - “Generally speaking, policies that assert the County will seek funding, absent clear and enforceable conditions or benchmarks, may not meet SB 1000’s requirement that the general plan reduce pollution exposure.”
 - “For example, Policy HZ-3.2 indicates the County will “monitor pollution exposure and identify solutions” in EJFAs, but it does not require implementation of identified solutions to reduce pollution exposure, nor does it define the type of pollution, how it is to be monitored, and the timeframe on which it should be monitored.”
 - The letter highlights an example that does include concrete and enforceable policy: “For example, draft Policy HZ-3.5 will ban new hazardous waste facilities from being developed in EJFAs.”
- The OAG letter to Santa Ana in 2020 offers examples on how to make policies stronger by making them more specific:
 - One of its policies states: “[c]onsider potential impacts of stationary and non-stationary emission sources on existing and proposed sensitive uses and opportunities to minimize health and safety risks” and “[a]pply special considerations and regulations on the siting of facilities that might significantly increase pollution near sensitive receptors within environmental justice area boundaries.”
 - To be stronger, the policy should:
 - Identify the types of regulations that will be applied to the facilities.
 - Provide conditions or thresholds that are triggered when such regulations are applied.
 - Define the types of pollution to be regulated and reduced.



- Establish a process and timeline to implement such regulations to reduce pollution exposure.

Example Practice #5

A city or county must consider all EJ issues in Priority Equity Communities.

Letter Examples:

- The City of Santa Ana received a letter from OAG in 2020 that noted that, although its Element covered several EJ issues, it was missing some important ones, such as lead contamination. This EJ issue was identified by the community.
- Ventura County, as detailed in the OAG letter from 2019, needed to address pesticide exposure and impaired waters as part of their Priority Equity Communities identification process and its EJ policy development. Here, too, the community was the one that had identified these missing EJ issues.
- In the two letters to the City of Kerman, OAG identified agriculture and pesticide exposure as missing EJ issues that were of high relevancy to an agricultural community like Kerman. In its Draft Plan, the City of Kerman had not developed EJ policies that addressed pesticide applications in Priority Equity Communities.

Example Practice #6

OAG encourages going beyond the requirements to ensure true completeness in accounting for all possible EJ issues in Priority Equity Communities.

Letter Examples:

- OAG applauded the City of Placentia in its letter in 2019 for explaining the impacts of climate change on its Priority Equity Communities, and committing to planting more street trees with a concrete deadline for meeting that goal.
- The City of Placentia, as indicated in the OAG letter in 2019, wrote EJ policies and programs that prohibit new sources of air pollution in Priority Equity Communities, and promote land use patterns that reduce driving and redirect truck routes away from residential areas.

Community Inclusion

Example Practice #8

The jurisdiction must ensure that all communities are reviewed and considered when analyzing data regarding pollution burden and health risks.

Letter Examples:

- OAG commented to the City of Fontana in its 2018 letter that it had analyzed overall traffic volumes but ignored high volumes in certain low-income areas.



2. Specificity

Identifying Priority Equity Communities

Example Practice #9

The jurisdiction must clearly and rigorously document and explain the methodology that was used to identify Priority Equity Communities within a given jurisdiction.

Example Practice #10

The jurisdiction must provide specific details regarding the location and boundaries of Priority Equity Communities, as well as any other relevant description such as the census tract number.

Example Practice #11

The jurisdiction must use assessment Methods 1 and 2 and consult with communities and other government agencies with EJ expertise. OAG strongly encourages that jurisdictions expand the data sources consulted as much as possible.

Example Practice #12

The jurisdiction must include all this information in the Element per se, not an ancillary document, such as a Background Report.

Letter Examples

- OAG wrote a letter to the City of Modesto in 2018 because it was unclear where the Priority Equity Community was located and what formulation and what basis was used to identify that tract as a Priority Equity Community.
- In its letter to Ventura County and to San Bernardino County in 2019, OAG requested that the presence of Priority Equity Communities not only be acknowledged but also clearly identified.

Health Impact

Example Practice #13

The jurisdiction must identify unique and compounded health risks in each Priority Equity Community individually.

Letter Examples

- The OAG wrote a letter in 2020 to the City of Kerman for not having identified unique and compounded health risks in Priority Equity Communities. The letter specified that these must be described separately for each Priority Equity Community even if the risks are similar across the census tracts.

Example Practice #14



The jurisdiction must define what being “in close proximity to” a polluting source means, and what an appropriate buffer is between industrial uses and sensitive receptors.

Letter Examples

- In its 2020 letter to the City of Santa Ana, OAG recommended the City strengthen its policies by:
 - Defining what is considered “in close proximity”, or set a standard buffer defining why it is appropriate.
 - Establishing affirmative requirements for separation between industrial uses and sensitive receptors (e.g., by at least 1,000 feet per CARB’s recommendation).

Environmental Justice Policies

Example Practice #15

SB 1000 specifies that EJ policies and programs must “reduce the unique or compounded health risks and pollution burdens borne by the Disadvantaged Communities.” As such, policies must be specific to Priority Equity Communities and the specific EJ issues identified in each, rather than be applied citywide.

Letter Examples

- The City of Fontana did not go into the specifics on how to address the concentration of industrial land uses and truck traffic in low-income residential areas, and the OAG letter to the City in 2018 pointed it out as a flaw that should be fixed.
- OAG pointed out in its letter to Fresno County in 2022 that the following EJ policies and programs were not specific enough and so did not provide a clear sense of what, if any, impact they would have on Priority Equity Communities:
 - “Raise awareness about healthy eating habits and food choices.”
 - “Ensure that residents of Disadvantaged Communities are provided the opportunity to participate in decisions that may have an adverse impact to their health.”
- OAG also recommended in its letter to Ventura County in 2019 that it should include additional EJ policies and programs that specifically address the unique needs of Priority Equity Communities.

Example Practice #16

EJ policies and programs also need to go into the specifics about how to address these pollution burdens (e.g., industrial land uses, truck traffic, water contaminants) in Priority Equity Communities.

Letter Examples

- The OAG wrote its first letter to the City of Kerman in 2019 noting that it designated two census tracts as Priority Equity Communities, but its EJ policies and programs were not tailored specifically enough to the main pollution burdens and health risks in those tracts.
- In its letter to Tulare County in 2020, OAG recommended including specific commitments to address the top pollution burdens identified in CalEnviroScreen. One way would be to create mandatory buffer zones to address pesticide exposures in the County.



Example Practice #17

EJ policies and programs are stronger if they include enforceable and clear language that helps ensure that they are effective and get completed. An example is including a deadline for meeting a goal and a timeline for its implementation.



3. Community Engagement

Example Practice #18

Community engagement needs to be front and center and embedded throughout the SB 1000 compliance process.

Example Practice #19

Cities and counties need to incorporate policies addressing concerns that were identified by community organizations.

Example Practice #20

Several OAG letters (City of Modesto 2018, Riverside County 2018, San Bernardino County 2019, City of Placentia 2019, Tulare County 2020, City of Huntington Park 2021, and Riverside County 2021) provide examples and guidance on Example Practices for community engagement. These are summarized below.

Community Engagement Example Practices:

- **Meaningful engagement:** Cities and counties should strive for meaningful engagement. This means not rushing towards a deadline and instead ensuring engagement is extensive and meaningful, and that community members are empowered to inform and form part of the decision-making processes and decisions that affect them.
- **Local partnership:** Partner with local community groups for outreach (and for improving and increasing community engagement) and development of the Element.
 - Partner with at least one or two community organizations that are interested and want to build a partnership to conduct community outreach.
 - Examples of these groups include environmental, public health, housing advocacy, charitable, religious, and neighborhood.
 - These groups should be familiar with the needs of community members and how to best conduct outreach with these community members.
- **Engagement tactics:** Refer to the Office of Planning and Research's (OPR) 2017 General Plan Guidelines, which discusses community engagement techniques. Specific activities from the letters include:
 - **Inclusivity:** Offer information and provide translation and interpretation during all workshops, meetings, and hearings in the languages that are native to community members living in local Priority Equity Communities.
 - **Transparency:** Post information and updates on websites and newsletters. Create a website specific to this process for sharing information and updates.
 - **Engagement timing:** Host recurring public workshops and meetings for community members at different stages of the process and in different locations across Priority Equity Communities.
 - Hold workshops on weekends or weekday evenings and locate the in-person meetings within Priority Equity Communities to make attending easier.



- Share an agenda and summarize all comments received.
- **Community survey:** Provide a survey for community members to identify EJ priorities, concerns, and burdens for their communities.
 - Make sure that the survey is widely distributed, including via the website, social media channels, printed flyers, and email lists.
 - Provide a summary of survey findings.
- **Advisory committee:** Create an EJ Advisory Committee that is fully representative of Priority Equity Communities.
- **Leveraging funding:** To be able to incorporate as much engagement as possible in the SB 1000 process, leverage funding from other planning processes by joining forces, such as with the grant cycle of the Housing Element.
- **Response to comment:** Provide public responses to comments and concerns from community members.
- Set up a transparent process to receive and respond to public input.
 - Share preliminary drafts with Priority Equity Communities and allow time and space for providing and incorporating feedback.
- **Agency partnership:** Collaborate with other government agencies knowledgeable and working on EJ and similar issues.



4. Full Compliance

Example Practice #21

If a Priority Equity Community is identified within a given jurisdiction, that jurisdiction must define specific policies to reduce pollution exposure and health risks in that community in its General Plan, either as a separate element or integrated across the Plan.

Letter Examples:

- The City of Huntington Park adopted its General Plan in 2019 without identifying any Priority Equity Communities or including EJ policies and programs. The OAG letter from 2021 noted that this is despite the city having census tracts ranking among the highest in CalEnviroScreen.

Example Practice #22

Future development cannot further overburden Priority Equity Communities; instead, jurisdictions must prevent new sources of pollution from being sited in these communities.

Letter Examples:

- OAG wrote in its letter to Fresno County in 2022 that it could not prioritize the siting of industrial uses in Priority Equity Communities or near sensitive sites, as it had done in its Element. There are fair employment and fair housing laws that apply to land use decision-making to prevent discrimination and racial inequity. As such, planners need to be aware of them and apply them when making land use decisions.



5. Consistency

Example Practice #23

Figures, including maps and other forms of analyses, and text should be consistent in what they state.

Letter Examples:

- In its 2018 letter to the City of Fontana, OAG noted that the City cited industrial land use concentration in specific parts of the city, but the map of current land uses demonstrated concentrations elsewhere as well.

Environmental Justice Policies

Example Practice #24

All policies should be consistently strong.

Letter Examples:

- OAG noted in its 2019 letter to Ventura County that some of its EJ policies and programs were stronger than others.



REFERENCES

All comment letters from the Office of the Attorney General to cities and counties can be found in its SB 1000 webpage by following this link:

<https://oag.ca.gov/environment/sb1000>.

