

Developing Equitable Enforcement Provisions: A Roadmap for Collaborative Policy Development

THIS IS AN ITERATIVE PROCESS

1 IDENTIFY A PROBLEM

Begin by defining a problem that needs to be solved.

COMMUNITY

Community members who will be directly affected or who have direct knowledge of the situation provide input into the problem to be solved. Multiple communities may be affected and/or overlap in different ways. Some communities may benefit more from the status quo, while others may advocate for change. Different groups may have competing or opposing goals.

RESEARCHERS

Researchers, academics, or think tanks may provide historical context for the problem and may receive information from **administrators** or **enforcing officials**. Is the complaint a symptom of a larger or systemic problem? How did this problem arise? Have there been past efforts to fix this problem, and how did they work? This information gathering should be centered on input from **community** members.

IN COLLABORATION WITH
ADMINISTRATORS
ENFORCING OFFICIALS
COMMUNITY

ELECTED LAWMAKERS

Elected lawmakers should listen and be responsive to input from **community** members – including concerns about what the problem is, the context for the problem, and potential solutions.

IN COLLABORATION WITH
COMMUNITY

An enormous amount of effort and resources must be first put into outreach and education before being able to facilitate workers' coming forward to enforce rights. Monitoring the cases brought by domestic workers allows us to then assess issues that come up and continue policy advocacy for solutions. Solutions may be within power of the agency to fix themselves; it may be a regulatory change, and we may need to campaign for a new piece of law. We see policy advocacy and enforcement working through a feedback loop as we hope to see our members realize their legal rights.
 —Reena Arora, National Domestic Workers Alliance

2 GATHER INFORMATION

Gather information that's relevant to the problem's history, scope, and possible solutions.

COMMUNITY

RESEARCHERS

Gather information that's relevant to the problem through public records requests, engagement with community-based organizations (CBOs), media, interviews, or surveys. **Community** members and organizations may be effective in obtaining relevant, reliable information that an outsider might be unable to access. (Example: Workers are more likely to share candid opinions on workplace violations with organizations that have built trust through ongoing interactions than with government officials whom they may distrust due to historical mistreatment.)

Researchers may provide valuable insight and assist with this process.

ELECTED LAWMAKERS

ADMINISTRATORS

ENFORCING OFFICIALS

Based on information gathered, **elected lawmakers**, in coordination with **administrators** and **enforcing officials**, determine what possible solutions exist and what resources are needed and available to address the problem.

Be sure to consult **community** members about possible solutions and potential consequences, particularly unintended consequences that may not directly stem from the issue addressed.

IN COLLABORATION WITH
COMMUNITY

How do you work with community in a way that is transparent, so that you're sharing information, you're building trust, and it's not a one-way street?
 —Jenn Round, workplace justice lab@RU

3 DRAFT THE ENFORCEMENT PROVISION

Begin drafting your policy by laying out your main approach to enforcement; then address implementation, equity, education, and evaluation. Write a policy that implements the desired change and sets forth the necessary details. Clearly state what the policy requires or prohibits, how it will be enforced, the resources required, and how those resources will be provided. Outline how the policy will be enforced equitably. Include provisions for educating stakeholders about the policy, as well as how the policy will be evaluated. The written policy will largely determine how the policy will be implemented and what impacts it will have, so each of these steps should be addressed in the written law, with consideration given to the roles of rulemaking and discretion.

APPROACH	IMPLEMENTATION	EQUITY	EDUCATION	EVALUATION
ELECTED LAWMAKERS Ensure that those tasked with implementing the enforcement provisions, those who stand to benefit from the enforcement provisions, and those who might be targeted by the enforcement provisions are involved in the drafting process alongside elected lawmakers , with the goal that everyone's perspectives are heard and no one is surprised by how the enforcement provisions affect them. IN COLLABORATION WITH ADMINISTRATORS ENFORCING OFFICIALS COMMUNITY	ELECTED LAWMAKERS ENFORCING OFFICIALS Enforcement provisions may be funded through the governing body's general revenue or self-funding mechanisms such as licensing fees. Elected lawmakers should prioritize economic consequences that affect actors in positions of power, like fines for businesses or property owners. Financial penalties imposed on individual community members may perpetuate inequities driven by systemic or structural issues. The rationale and goals should be made clear for enforcing officials . IN COLLABORATION WITH COMMUNITY	ADMINISTRATORS ENFORCING OFFICIALS COMMUNITY Enforcement provisions should be designed with attention to parties and processes that can steer enforcement in an equitable way. For example, enforcement that relies exclusively on complaint-based processes may create insurmountable barriers for underserved groups who fear retaliation or lack trust in the government system. Administrators and enforcing officials , who are primarily responsible for day-to-day implementation of the enforcement provision, should seek continual dialogue with community members to ensure that the policy is functioning as intended.	COMMUNITY ADMINISTRATORS Include provisions on educating community members about the new enforcement strategies (e.g., employers and employees on enforcement of workplace policies). This approach provides an opportunity for administrators to collaborate with CBOs and other partners trusted by affected parties. Providing the rationale for the intervention and giving all stakeholders the information they need to comply helps set the stage for successful policy implementation. ENFORCING OFFICIALS Include provisions on educating the enforcing agency about equity concerns in enforcement, including potential bias and risks that could arise from over- or under-enforcement. <u>Equitable Enforcement to Achieve Health Equity</u> is a useful resource for framing these conversations.	COMMUNITY RESEARCHERS ELECTED LAWMAKERS Enforcement provisions should include evaluation, data collection, and monitoring to ensure that the policy is having the intended effect. The policymaking process is not finished when a bill becomes a law: the policy should provide administrators with sufficient resources for ongoing evaluation and revision in collaboration with community partners. Elected lawmakers can receive data on implementation and make further revisions if necessary. Researchers may also be able to provide insight and evaluation, helping to quantify the effects of the policy and identify potential disparities in implementation. IN COLLABORATION WITH ADMINISTRATORS
COMMUNITY RESEARCHERS	COMMUNITY RESEARCHERS	COMMUNITY COMMUNITY	ADMINISTRATORS ENFORCING OFFICIALS	ADMINISTRATORS ENFORCING OFFICIALS

Often, the starting place when crafting equitable enforcement mechanisms is looking to examples that already exist in the state's laws.
 —Jared Make, A Better Balance

Even agencies that have more staffing – they'll get a number of staff for the laws that are on the books then, and the legislators will pass three or four more laws without additional staffing or resources. So all of a sudden, resources are thinner and thinner and then these great laws don't have the staff capacity or resources needed to actually implement them.
 —Janice Fine, workplace justice lab@RU

How equitable is that access? These laws have the potential not just to raise the floor but to narrow the gap in many aspects of job inequality by race, by gender, by ethnicity. But we need to really go out and hear from workers directly about whether or not they're getting the benefits and rights that they are due under the law. I would also say it's not sufficient to go ask employers if they are complying; you need to ask workers if they are getting what they are due – and those two sets of reports can be very different.
 —Daniel Schneider, The Shift Project

As we create more public education materials on Colorado's paid sick time law, we've seen a notable increase in workers across the state who contact our legal helpline with questions about how the law works, what it covers, and other baseline information. We tend to hear most from Coloradans in low-wage jobs, a trend that we see nationwide and that reflects the data showing that workers in low-wage positions are least likely to have access to paid sick leave before a law requiring such leave is passed.
 —Jared Make, A Better Balance

We were able to work very closely with the city auditor's office and the Office of Labor Standards to design an evaluation of Seattle's secure scheduling ordinance. We were able to go back and follow up and get new samples of workers after the law had gone into effect to understand how things had changed for those covered workers in Seattle and for workers elsewhere. Using that before-and-after comparative design, we're able to generate estimates of the effects of Seattle's law.
 —Daniel Schneider, The Shift Project