



Designing for Community Engagement: Toward More Equitable Civic Participation in the Federal Regulatory Process

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Designing for Community Engagement

Toward More Equitable Civic Participation in the Federal Regulatory Process

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About the Ash Center

The Roy and Lila Ash Center for Democratic Governance and Innovation advances excellence and innovation in governance and public policy through research, education, and public discussion. By training the very best leaders, developing powerful new ideas, and disseminating innovative solutions and institutional reforms, the Center's goal is to meet the profound challenges facing the world's citizens. The Ford Foundation is a founding donor of the Center. Additional information about the Ash Center is available at ash.harvard.edu

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About Political Reform

The Political Reform program works towards an open, fair democratic process, with equitable opportunities for full participation, in order to restore dynamism and growth to the American economy and society.

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Designing for Community Engagement: Toward More Equitable Civic Participation in the Federal Regulatory Process

Introduction

The programs and rules that affect Americans' daily lives and security are profoundly shaped by the regulatory and rule-making process within the Executive Branch of government. While federal regulation touches thousands of issues, from employment rights to environmental health, the process of creating these regulations is shrouded in bureaucratic mystery, disconnected from Americans' daily experiences, and rarely covered outside specialized media.

Nonetheless, federal agencies are expected to take into consideration the views of the public, particularly those likely to be affected, before issuing a proposed rule, in addition to other economic and scientific analyses. Historically, the minimum amount of engagement required is specified in the Administrative Procedures Act, through the formal notice-and-comment process. Under this process, the public is given 30 days after the publication of a draft rule to submit "written data, views or arguments."¹ Agencies may also choose to hold public hearings. Some agencies go beyond the minimum and deploy other tools for outreach beyond notice-and-comment, including engaging with the public long before the publication of a notice for proposed rule-making.²

While the formal notice-and-comment process can be overwhelmed by funded lobbying efforts, the more *ad hoc* processes also tend to advantage sophisticated actors who have the time, resources, and knowledge to invest in the regulatory process. This advantage makes it challenging for regulators to take into account the views of those who are unfamiliar with the process or lack the means to engage fully, especially historically marginalized communities.

The Biden-Harris administration has sought to broaden the role of public engagement in the process of government decision-making, with a particular focus on equity. In January of this year, the administration issued two Executive Orders (EOs) that called for modernizing regulatory rule-making and for advancing equity.³ In November, the administration put forth a management vision which includes three priority areas for building a more equitable, effective, and accountable Federal Government. One priority area is to improve the design of services and provide digital access in ways that reduce burdens, address inequities, and streamline processes.⁴

A key source of expertise on improving public engagement and informing execution of the EOs and the management vision are local leaders and organizers

who, in cooperation with state and local government, have developed and tested more effective and equitable methods of participation. Local organizers, deeply rooted in the challenges and experiences of their communities, possess distinctive expertise. They offer not only illustrative examples of best engagement practices, but also approaches to *designing* processes that engage diverse communities effectively. These insights and practices include building concrete feedback loops into participatory processes, incorporating continuous consultation and engagement, and identifying ways to promote transparency and inclusion into the review process.

To understand the advantages of and challenges to a reformed regulatory review process, New America’s Political Reform program and the Ash Center for Democratic Governance and Innovation at Harvard University’s John F. Kennedy School of Government convened a group of local community engagement experts, public sector leaders, and on-the-ground organizers to share their expertise in designing processes that support more inclusive engagement, in particular working with historically underserved communities. This was the second in a series of discussions on reforming the regulatory review process. The brief of our first discussion with academic experts focused on modernizing regulatory reform beyond cost-benefit analysis and is available [here](#).

During this discussion with local community engagement experts, we sought to identify the process designs and other innovations that would empower residents to exercise meaningful influence over decisions about the formation, review, and implementation of regulations. Our discussion focused on extending community engagement processes to give grassroots groups and affected parties a voice in the federal regulatory process.

These experts agreed that when engagement is designed intentionally, policymakers can work with communities more effectively to garner information and insights, implement programs or provide services, and build trusting relationships. Furthermore, while participation in and of itself is important, designing more effective engagement can also ensure that participants identify and harness opportunities to protect their interests and *influence* decision-making. And, most importantly, transparent and inclusive engagement practices can improve policy outcomes and strengthen equity.

Bridging the Divide Between Federal Policy and On-the-ground Experiences

Designing a Pre-engagement Strategy

Our discussion brought together four experienced, innovative local leaders, from Appalachia to San Diego—Dr. Kyra Greene, Executive Director of Center on

Policy Initiatives; Whitney Kimball Coe, Director of National Programs and Coordination of Center for Rural Strategies; David Martinez, Director of Community Engagement for Vitalyst Health Foundation; and Dr. Sarah Sayeed, Chair & Executive Director of the NYC Civic Engagement Commission. These leaders shared what they have learned about how to connect best practices for local engagement with the different challenges of federal policy. Their experiences and perspectives on proactive engagement efforts highlighted the challenges of rebuilding trust in public institutions. Some stressed the need for governments and local organizations to take proactive measures to reach residents and make them aware of government decisions, including the often-opaque federal regulatory process, while others addressed the challenges of mobilizing residents to speak for themselves.

Our conversation illuminated the importance of engaging with communities early in the process, in a “pre-engagement” stage. One panelist pointed to her experience during the recent census count in California, citing the need to educate and mobilize communities three years before the actual release of the census. This early engagement was necessary to help explain *why* the census was important, *what* problems it was solving, and its implications for resource allocation to residents. Furthermore, this early engagement was necessary to ensure as many community members as possible were reached and educated on these issues. For example, “low information participants”—broadly described in this discussion as any resident in the community from any walk of life who did not have an understanding, concern, or focus on the issue overall—were provided with simple, easy-to-understand pamphlets and short, concise videos in multiple languages to reach a wide range of populations.

When compared to that of local government, the impact of a federal policy on a local community is felt only after an extended period. This prolonged schedule often advantages sophisticated actors who possess greater resources to deploy for results over longer time horizons. While this is especially true with the federal regulatory process, *pre-engagement could be a useful corrective*. Lessons from engagement processes demonstrated the opportunity of pre-engagement with agencies before federal regulations move to the notice-and-comment period.

The four experts encouraged federal officials to consider several design questions from their own work:

- Is it clear what motivates residents to engage?
- Do engagement goals set by the government include residents’ concerns, input, and ideas?
- What are *their* interests—real or perceived—in a particular regulatory or federal process?

What do leaders or those managing the engagement process ask of residents (e.g. time, input, resources, expertise, etc.) and is it clear to residents what they are being asked to provide?

Trusted Intermediaries

One of the most important lessons from our conversation is the crucial role of trusted partners in the community to deliver information and to help build more resilient relationships between citizens and their government. *Who* reached out was as important as the information that they provided. For example, partners who were trusted in the engagement around the census in California were not the same as those who were used to boost confidence in the COVID-19 vaccine. The implications for the lack of trust in institutions and authorities have played out throughout the last two years in the COVID-19 crisis: 39 percent of unvaccinated Americans saying they do not trust hospitals.⁵ As community and government leaders consider opportunities to expand their engagement, it is essential to recognize that those that have capacity to provide information on policy are not necessarily the same as partners who would be trusted in affected communities. Thus, coalition building, coordinated action, and information sharing between issue area experts and trusted partners are essential to reach underrepresented and disadvantaged communities.

Intermediaries are critical to the success of participatory processes because they help bridge the gap between the trusted partners and the partners with the necessary information. One panelist spoke of their work to close the digital divide in rural communities. While confirming many of the same lessons around census outreach, engagement on broadband highlighted various additional issues surrounding data.⁶ While a plethora of data is available on the topic of connectivity, ensuring that information is credible, helpful, and digestible to the public is a necessary component for effective engagement. This further demonstrated the need for intermediaries to help define and illuminate such data, and to work closely with trusted partners to deliver the data effectively to communities to understand what resources to lean on.

Pre-engagement discussions and strategies were viewed as a best practice to support access to information, and to help make the case for why federal issues would be important to local communities, in particular to reach historically underrepresented populations. Over time, this could help build trust and ensure that partners, intermediaries, and governments understand perspectives and lived experiences from affected communities so that they can incorporate these understandings into regulation and public policy. Such affirmative outreach to new, often underrepresented populations can ensure that affected communities have a say in the resources and policies that are taking shape, and reduce the advantage of more sophisticated actors with the experience, time, and resources to engage in the regulatory process.

Local experience suggested further questions for federal regulators seeking stronger engagement:

- Who is engaged? How does the overall demographic makeup of those who are engaged compare to the overall makeup of the city?
- What types of channels are government agencies and leaders using to communicate, invite, and alert residents and/or partners to engagement opportunities? (e.g., social media channels, in person, websites, releases, etc.)
- Who are the key organizational partners and intermediaries? Are specific community leaders, business associations, or activists engaged? Are these partners aware and actively addressing historic inequities?
- If targeting a specific group, what is the average age or digital literacy of the group?
- What knowledge do those being engaged bring to the engagement? What background information will they need to participate effectively, and who will prepare and deliver that information?

Locally Rooted Engagement in Federal Funding

Our panelists identified the use of federal funds and implementation of federal projects in local communities as an important potential focus for community engagement.

For example, in Arizona, the Regional Transportation Authority was charged with managing community engagement regarding federal funding the state received to expand transportation infrastructure in the region. To move forward with the implementation of this expansion and to receive matching dollars, a local vote was held to determine whether the transportation plan would move forward. Working with local intermediaries was critical, not just to garner information to support the engagement work, but during the pre-engagement phase to understand *how* communities wanted to engage and ensure that engagement was robust. As part of that effort, intermediaries and partners worked closely to engage affected communities, including traditionally underserved communities, to ensure that transportation expansion into often historically underrepresented communities met their distinct needs. While this example demonstrated the importance of pre-engagement, it also demonstrated that local community engagement can have real implications for federal funding.

As communities receive federal funds through state agencies, public agencies should ensure that historically underserved communities have equitable access

to newfound services and resources. Ensuring equitable access is challenging, as disparities exist within and across categories of income, race, ethnicity, gender, and geography. However, including local civic input into how federal resources are deployed can significantly mitigate this challenge. Local voices have the tactical background to identify the most effective and equitable ways to move federal funds through existing or newly established channels in state and local governments. Ensuring this kind of input into how federal resources are deployed could make it easier on the ground to move money through new channels.

These insights led to further questions for regulators to consider:

- Is engagement consistently incorporated into each stage of the policy-making or decision-making process?
- How are leaders handling feedback and communicating outcomes back to residents?
- How is public engagement managed and moderated at each stage? Have leaders engaged with residents directly? Were there outside facilitators? Do residents or community groups have a role in organizing, managing, or facilitating the event?

Communication to Build Trust: Opportunities for Engagement

Trusted partners from the government are critical for successful engagement. For example, the New York City Civic Engagement Commission (CEC), established by a ballot initiative, is charged with advancing participatory governance. Through this work, a collaborative effort towards using digital platforms has been a focal point. In 2020, the CEC committed to using Decidim, an open-source digital platform used in cities worldwide to promote direct democracy. Decidim allows residents to submit proposals, view submissions by others, and vote for proposals they find compelling. The platform also enables city governments to form online assemblies, conduct participatory budgeting processes, engage in strategic planning, and highlight legislation in draft form and gather feedback directly from residents. The CEC launched a youth-driven participatory budgeting process where young people ages 9-24, regardless of citizenship status, could participate and decide how to allocate \$100,000. The CEC conducted targeted outreach to ensure engagement from traditionally marginalized communities, including communities of color. With this process, New York City also became the first municipality in the United States to host a participatory budgeting process on Decidim. The CEC is currently using this platform for a recovery-focused participatory budgeting process in partnership with community organizations in the 33 neighborhoods hardest hit by COVID-19, as are some city council members.

These capabilities increase transparency and availability of channels for direct feedback from residents who are affected by urban policies and city legislation. Multi-channel engagement—using a variety of in-person and digital tools to engage residents, seek their input and ideas, and enhance communication overall—can be effective in developing strong communication and feedback loops because people prefer to engage in varied ways. Some people prefer to engage synchronously, others asynchronously, some in-person, others digitally, and so on.⁷

Communication between trusted partners and residents is critical to engagement, but there are opportunities for the federal government to do more to engage actors over the longer term. Engaging residents particularly during the agenda-setting stage can help build genuine civic power and civic voice in shaping the priorities set for discussion in the first place. Creating new pathways and channels in the policy-making process for communities of color, rural communities, and young people to decide on what gets talked about before the talking formally begins is critical to shifting power into the hands of everyday people. If the government does not provide communities with opportunities to actively set the agenda among policymakers, there is a high risk that the government will charge ahead in the decision-making process without vital information on the communities' interests and goals.

Participants spoke of some regional representatives from federal agencies, such as the US Department of Agriculture, who were trusted by, and effective at, engaging people in local communities. Regional representatives understand the on-the-ground actors and they can better inform and represent the needs of the region to Washington. This current channel and mechanism could be further embraced, such that the agency with the trusted regional representatives can serve as a catalyst for executing work outside the agency's scope. That is, other agencies can leverage the trust that one agency has built with an outside partner to facilitate further collaboration on a range of other issues that affect communities on a daily basis.

Governments and agencies often work in silos, hindering their ability to engage effectively. Agencies must work across government and across coalitions to break down these silos to better share information and understand concerns being raised. An example of how this can be done successfully was the Obama Administration's White House Rural Council. The objective of the **White House Rural Council** was to address challenges in rural America, build on the Administration's rural economic strategy, and improve implementation of that strategy. Panelists shared that the Council streamlined and improved engagement across partners and coalitions and across the whole of government in a way that allowed for more concrete conversations and helped elevate and prioritize issues. Furthermore, this was an example of building in feedback loops: the Rural Council sent information back to organizations on if and how their engagement and points were used to directly inform policy outcomes.

Shifting Who Participates

Panelists underscored the need to shift attitudes around engaging new voices in the federal regulatory process. Ultimately, residents should be treated with the same high level of care and mutual respect that we take to engage elected officials and influential stakeholders: consider where they are, what they think, how they think, what their interests are, and infuse that kind of consideration into efforts and interactions that will yield results. It is important that the government and the federal regulatory process leverage communities and their perspectives during the problem-definition stage to truly see a change in outcomes. Engaging in these conversations with communities only after the problem has been defined or a rule has been proposed is too late to give people a real voice in the decision-making process and outcomes.

About the Discussion

Participants

Archon Fung, Winthrop Lafin McCormack Professor of Citizenship and Self-Government, Harvard Kennedy School (*moderator*)

Dr. Kyra Greene, Executive Director, Center on Policy Initiatives

Whitney Kimball Coe, Director of National Programs and Coordination, Center for Rural Strategies

David Martinez III, Director of Community Engagement, Vitalyst Health Foundation

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Hollie Russon Gilman, Fellow, Political Reform, New America

Dr. Sarah Sayeed, Chair & Executive Director, NYC Civic Engagement Commission

Mark Schmitt, Director, Political Reform Program, New America

Agenda-Setting Questions

Best Practices of Engagement

1. When thinking about the design process of engaging people, how would you begin to think about best practices to solicit input, feedback, and advice from traditionally marginalized communities? In your experience, what kinds of measures work particularly well to engage (i) historically

marginalized people and (ii) organizations that represent the interests of marginalized or disadvantaged people?

2. Participating in a process is one thing but participating effectively and exercising influence is a higher bar. What process designs and other measures would empower residents to exercise greater influence in the decisions about the formation, review, and implementation of federal regulations?
3. Conversely, what sorts of practices of engagement make participation in politics and rule-making less accessible—for instance, by being off-putting to disadvantaged people and communities?
4. Can you think of specific examples in which resident and affected communities have been especially effective in harnessing federal regulatory processes (or, examples of success from state and local decision-making processes might offer helpful lessons for federal processes). Conversely, can you think of examples in which residents and communities were unable to influence such processes and were negatively affected by subsequent federal rules or regulations?
5. Can you think of specific community organizations that are especially good at engaging in public—especially federal—regulatory processes?
6. What are pitfalls to avoid when engaging historically marginalized community members in the federal regulatory process?
7. What are the types of transparency mechanisms that could allow for individuals and organizations to access information that they need to participate effectively? What are the systematic mechanisms that would allow for transparency?

Additional questions to support your thinking on this topic

Before Engagement

- Residents know that regulations are important, but the federal regulatory process can appear complicated. How do we not just engage, but also help residents and community organizations to become knowledgeable about federal regulations and their effects?
- What sorts of **proactive** measures have you seen governments (at the city, state, or federal level) take to reach out to people and community

organizations to make them aware of government decisions that are being made and how they can provide input and influence those decisions?

- What are some early steps that would bring new voices into this process, beyond opportunities for comments? Are there models or examples to draw on that would allow for engagement?

After Engagement: Feedback Loops, Accounting, and Accountability

- One barrier to engagement is the “black hole” problem—people participate in a process, and they never know what the government and agencies did (if anything) with what they said and what they wanted. What, if any, feedback mechanisms have you seen work in which government officials or agencies tell people (and community organizations) how they acted on the information or perspectives provided through participation?
- In areas like campaign contributions and, to some extent in elections, we can see afterward who participated and who didn’t. But in other kinds of participation—like providing input into notice-and-comment processes of federal regulation and most public hearings and meetings, there isn’t much of a transparent record of whose voices were present and which ones were absent or silent. What kinds of record-keeping and disclosure would help advocates, analysts, and representatives of disadvantaged communities understand the extent to which their voices were present in a process? For example, are there any processes for auditing notice-and-comment, in particular to see who was engaged and how they were engaged? Is there an opportunity for public reporting on this?
- What does success look like in building these new processes, and what reforms could be made to see an impact?

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