



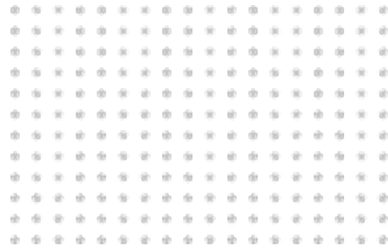
**Title VI Plan
August 2023**

Winchester Frederick County Metropolitan Planning Organization

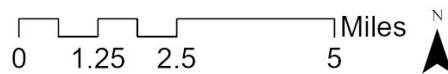
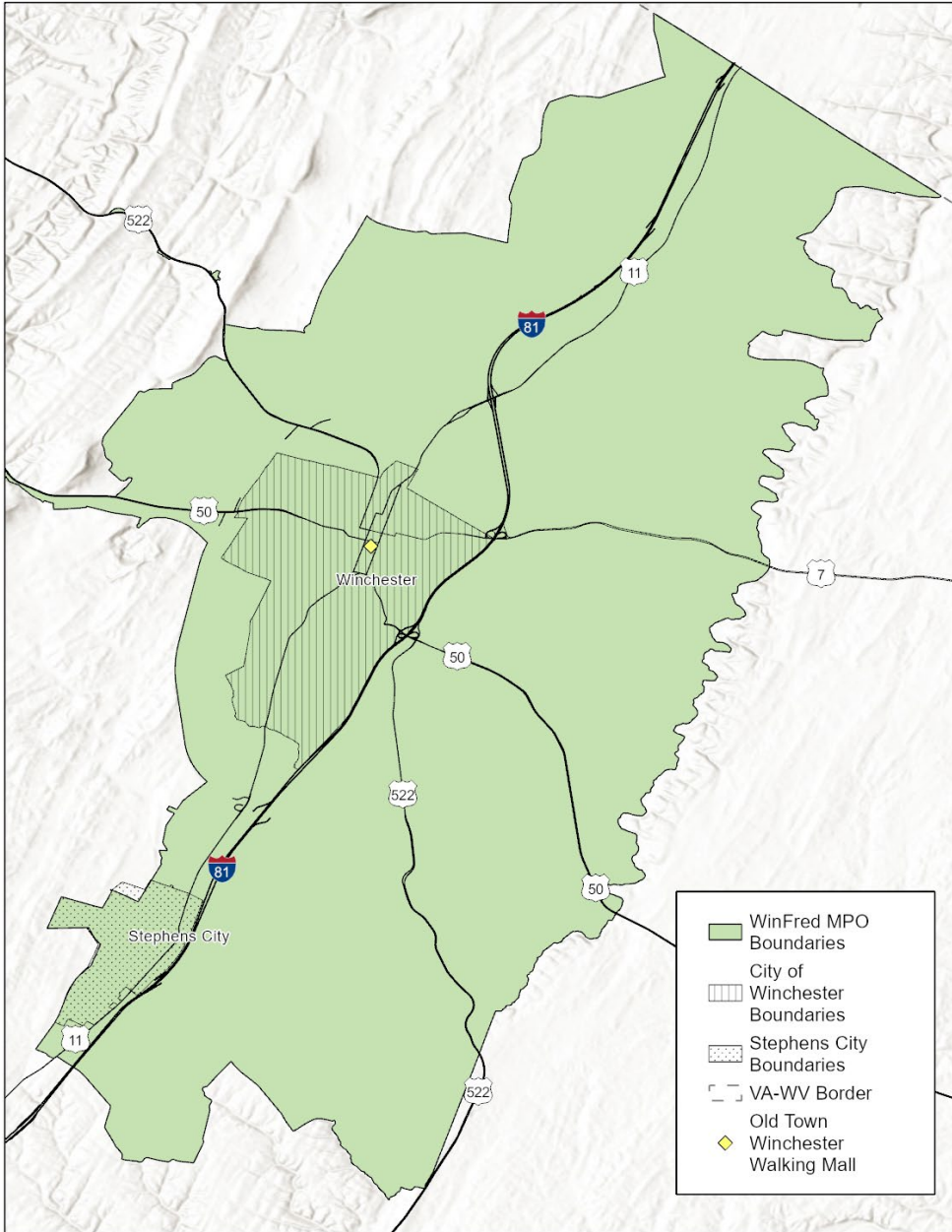
Title VI Plan



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WinFred MPO Planning Area

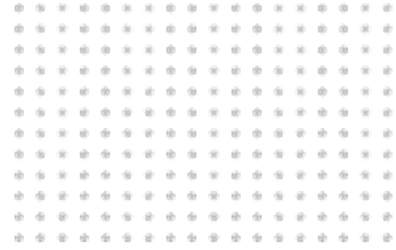


**Figure 1:
Metropolitan
Planning Area
(MPA)**

The WinFred MPO boundaries extend north, to the state border of West Virginia, and south, to Stephens City. The Frederick County Boundary, Opequon Creek, defines most of the MPO's eastern limits.



ACKNOWLEDGEMENTS

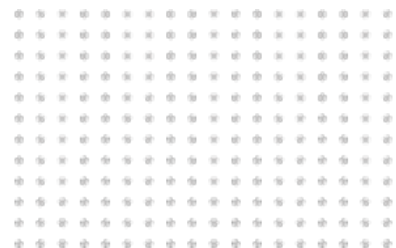


This Plan was prepared on behalf of the WinFred MPO through a cooperative process involving the City of Winchester, Frederick County, the Town of Stephens City, the Virginia Department of Transportation (VDOT), Virginia Department of Rail and Public Transportation (DRPT), Federal Highway Administration (FHWA), and the Federal Transit Administration (FTA). The Northern Shenandoah Valley Regional Commission (NSVRC) provided administrative support and technical assistance.

Federal and state agencies (FHWA, FTA, VDOT, and DRPT) funded the development of this document.

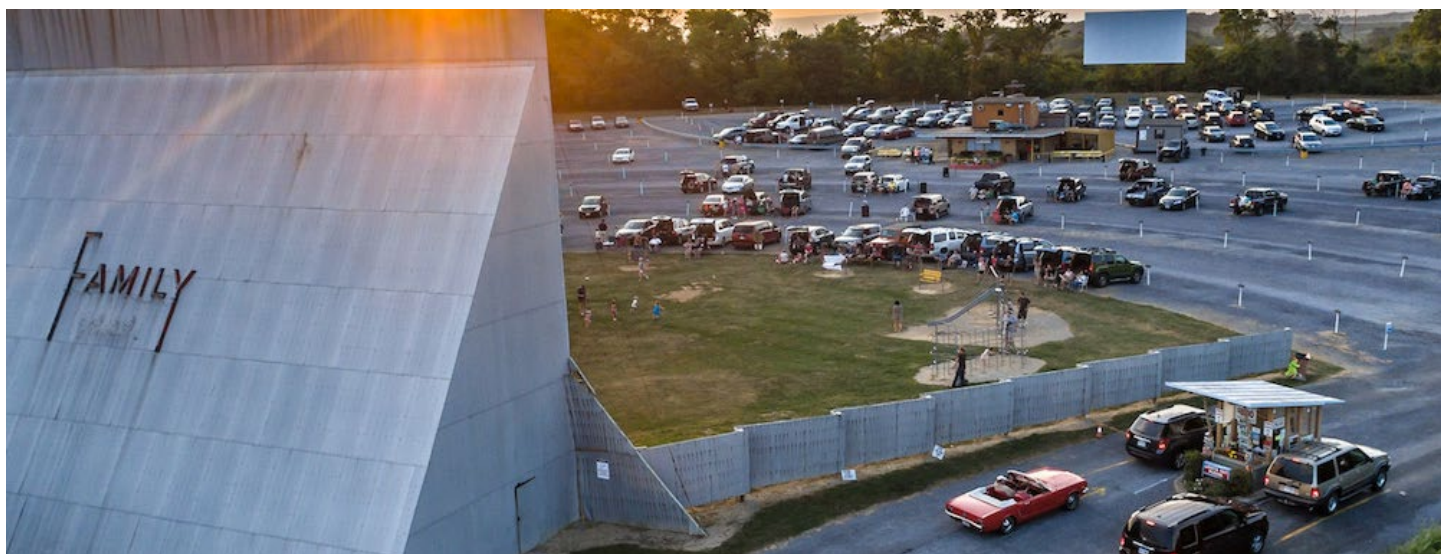


DISCLAIMER



The WinFred MPO is committed to ensuring that no person shall, on the grounds of race, color, national origin, as provided by Title VI of the Civil Rights Act of 1964 and the Civil Rights Restoration Act of 1987 (PL100.259), be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity, whether those programs and activities are federally funded or not.

For additional information on WinFred MPO's nondiscrimination policies and procedures or to file a complaint, please visit the website at www.winfredmpo.org or contact Brandon Davis, Executive Director, Northern Shenandoah Valley Regional Commission, 400 Kendrick Lane, Suite E, Front Royal, VA 22630, or by phone at (540) 636-8800, or by email at bdavis@nsvregion.org.



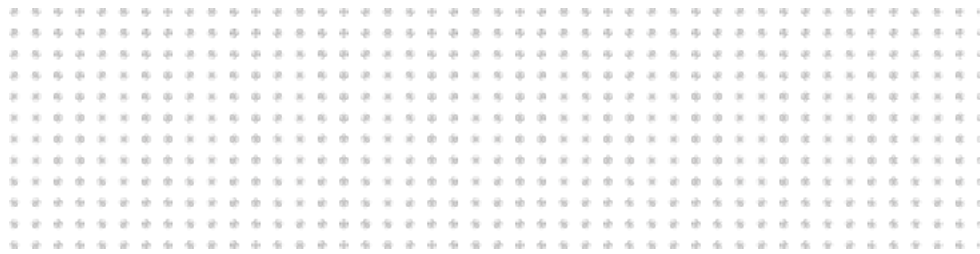
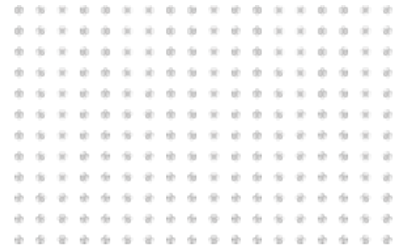


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TITLE VI INTRODUCTION



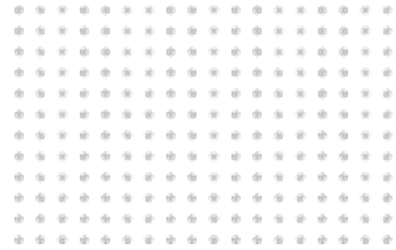
Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, or national origin in programs and activities receiving Federal financial assistance. Specifically, Title VI provides that “no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” (42 U.S.C. Section 2000d).

Purpose

The purpose of this plan is to ensure compliance with Title VI and Environmental Justice (EJ) requirements in the Metropolitan Planning Organization’s (MPO’s) urban transportation planning programs. This document also aims to demonstrate the Winchester Frederick County Metropolitan Planning Organization’s (WinFred MPO’s) and the Northern Shenandoah Valley Regional Commission’s (NSVRC’s) commitment to nondiscrimination. This plan details how the WinFred MPO incorporates nondiscrimination policies and practices in its daily functions. It describes how WinFred MPO mitigates against and avoids inadvertently excluding low-income, minority, limited-English-speaking, disabled, and elderly populations in the agency’s operations. The following also includes procedures that allow affected persons to submit grievances if they feel there is an instance of discrimination.



NONDISCRIMINATION COMMITMENT



A Living Document

The WinFred MPO Title VI Plan is a living document, meaning that it may need occasional updates to assure responsive compliance with federal laws and other state requirements. Regular updates aim to demonstrate a clear and consistent commitment to nondiscrimination practices under Title VI and Environmental Justice.

Our Commitment

WinFred MPO and NSVRC are committed to meeting and exceeding federal Title VI and EJ mandates and fostering transparent and inclusive operations. As the designated MPO for the City of Winchester and Frederick County region, WinFred MPO is committed to making Title VI and EJ part of our daily functions, integrating these considerations throughout our programs, plans, and public participation efforts. This Title VI Plan establishes a baseline framework of practice, which our staff strives to maintain and exceed.

Note: Complimenting the Title VI Plan is the MPO's Public Participation Plan (PPP), which guides how WinFred MPO engages the public and stakeholders in its planning efforts.

Federal Transit Requirements:

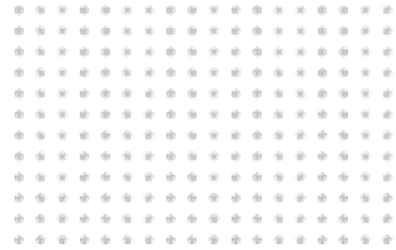
Recipients of public transportation funding from Federal Transit Administration (FTA) and the Virginia Department of Rail and Public Transportation (DRPT) are required to develop policies, programs, and practices that ensure that federal and state transit dollars are used in a manner that is nondiscriminatory as required under Title VI.

Nondiscrimination Focus Areas:

This plan also describes how WinFred MPO incorporates Title VI and Environmental Justice (EJ) into:

- Communication and Public Participation
- Planning and Programming
- Contracts
- Education and Training

SECTION 1. CONTEXT



Title VI

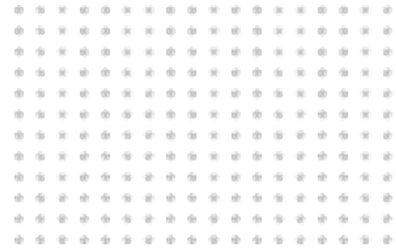
In 1964, the United States Congress passed the Civil Rights Act, an Act that enforced constitutional and civil rights for minority populations. This landmark piece of legislation consisted of 11 titles. Title VI, called “Nondiscrimination in Federally Assisted Programs and Activities,” is the driving force behind this document.

Title VI of the 1964 Civil Rights Act consists of four sections. The first (SEC. 601) states that “no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.” The remaining four sections discuss how Section 601 will affect federal agencies.

Title VI applies to the WinFred MPO because it is a federally mandated agency, funded primarily through federal tax dollars. Over the years, Federal legislation and Executive Orders have expanded Title VI and its importance.

The Four Sections under the 1964 Civil Rights Act:

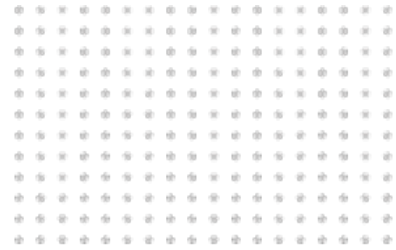
- **SEC. 601:** No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.
- **SEC. 602:** No federal agency can enact or fund projects that do not adhere to the criteria outlined in Section 601.
- **SEC. 603:** Any agency that does not adhere to the parameters outlined in SEC. 601 and 602 are subject to judicial review. Funding for any federal agency can be withdrawn if SEC. 601 and 602 are not met.
- **SEC. 604:** Title VI will not affect employment unless said employment is federally funded.



Nondiscrimination Acts:

Below is a list of nondiscrimination laws that have expanded upon the original scope of Title VI.

- **The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970** prohibits unfair and inequitable treatment of persons displaced or whose property will be acquired because of federal and federal-aid programs and projects.
- **The Federal Aid Highway Act of 1973** states that no person shall, on the grounds of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal assistance under this title or carried on under this title.
- **Section 504 of the Rehabilitation Act of 1973** states that no qualified handicapped person shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity that receives or benefits from federal financial assistance. This Act protects qualified individuals from discrimination based on their disability.
- **The Age Discrimination Act of 1975** states that no person shall, based on age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. This act prohibits age discrimination in federally assisted programs.
- **The Civil Rights Restoration Act of 1987, P.L.100-209** amends Title VI of the 1964 Civil Rights Act to make it clear that discrimination is prohibited throughout an entire agency if any part of the agency receives federal assistance.
- **The American Disabilities Act (ADA) of 1990** prohibits discrimination against people with disabilities in employment, transportation, public accommodation, communications, and governmental activities.

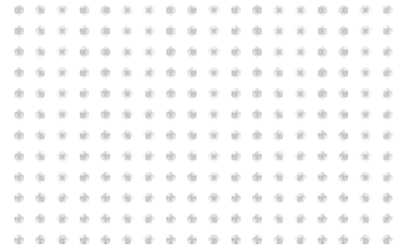


Environmental Justice is meant to address the undue burden of these adverse effects on vulnerable populations. This Executive Order aimed not only to require federal agencies and those benefitting from federal funding to mitigate potential adverse effects on these populations, but also empowered vulnerable communities to know their rights and participate in civic processes.

Other related guidance includes:

- **FHWA/FTA Memorandum Implementing Title VI Requirements in Metropolitan and Statewide Planning:** This memorandum provides clarification for field officers on how to ensure that environmental justice is considered during current and future planning certification reviews. The intent of this memorandum was for planning officials to understand that environmental justice is equally as important during the planning stages as it is during the project development stages.
- **The National Environmental Policy Act (NEPA) of 1969:** This legislation addresses both social and economic impacts of environmental justice. NEPA stresses the importance of providing for “all Americans, safe, healthful, productive and aesthetically pleasing surroundings,” and provides a requirement for taking a “systematic interdisciplinary approach” to aid in considering environmental and community factors in decision-making.

SECTION 2. POLICY STATEMENT AND AUTHORITIES



Title VI Policy Statement

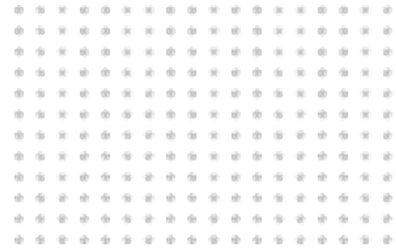
The WinFred MPO is committed to ensuring that no person shall, on the grounds of race, color, national origin, as provided by Title VI of the Civil Rights Act of 1964 and the Civil Rights Restoration Act of 1987 (PL100.259), be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity, whether those programs and activities are federally funded or not.

The WinFred MPO Title VI Manager is responsible for initiating and monitoring Title VI activities, preparing required reports, and other responsibilities as required by Title 23 Code of Federal Regulations (CFR) Part 200, and Title 49 CFR Part 21.

Signature of Authorizing Official

Date





Annual Nondiscrimination Assurance to DRPT

As part of the Certifications and Assurances submitted to the Department of Rail and Public Transportation (DRPT) with the Annual Grant Application and all Federal Transit Administration grants submitted to the DRPT, the WinFred MPO submits a Nondiscrimination Assurance which addresses compliance with Title VI, nondiscrimination in hiring (EEO) and contracting (DBE), and nondiscrimination based on disability (ADA). In signing and submitting this assurance, the WinFred MPO confirms its commitment to nondiscrimination and compliance with federal and state requirements.

Detailed Responsibilities of the Title VI Manager

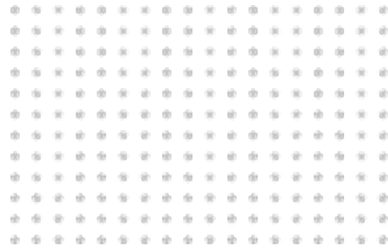
The Title VI coordinator will be responsible for incorporating Title VI efforts into various plans produced by the WinFred MPO. This position will also make every effort to ensure that all information regarding the WinFred MPO is reasonably accessible to all populations. Informational materials will be readily available on the MPO's website and in the NSVRC offices.

WinFred MPO's Title VI Coordinator: Brandon Davis

The WinFred MPO designated the Executive Director of the Northern Shenandoah Valley Regional Commission, Brandon Davis, as the Title VI Coordinator. His contact information is:

- **Phone:** (540) 636-8800
- **Email:** bdavis@nsvregion.org.

All MPO employees have Title VI responsibilities. However, specific positions could be more involved with the Title VI process. These positions include the Senior Program Operations Manager, who will be kept informed of all Title VI complaints and should complete numerous Title VI training courses over the course of his/her career. The current Senior Program Operations Manager is **Karen Taylor**. Also, the NSVRC's Administrative Assistant will likely be the first point of contact if a Title VI or EJ complaint or request is made. The Administrative Assistant will do the initial processing for these situations and will forward the request on to the Title VI coordinator.

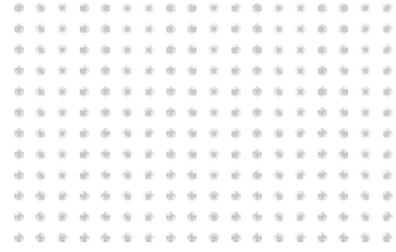


Below is a list of the Title VI Coordinator's specific responsibilities.

- **Oversight:** Monitor and review agency programs, policies, and activities for Title VI compliance in primary and special emphasis areas.
- **Demographic Tracking:** Collect and review statistical data on the region's changing demographics, related to race, color, sex, age, disability, or national origin, to prevent or eliminate potential unequal impact or discrimination.
- **Contracting:** Coordinate with NSVRC staff involved in procurement or consulting contracts to ensure that Title VI compliance is met and that (s)he mitigates any identified issues.
- **Training:** Ensure that NSVRC staff receive training on Title VI compliance procedures. The Title VI Manager will also attend training to keep aware of nondiscrimination opportunities and procedures.
- **Language Services:** Maintain a list of interpretation service providers.
- **Regular Review:** Conduct regular reviews and updates of the WinFred MPO Title VI Plan.
- **Complaints:** Resolve Title VI complaints in a timely and thorough fashion.



SECTION 3. MPO RESPONSIBILITIES & STRATEGIES



As a federally mandated and funded agency, the WinFred MPO must develop strategies to engage populations that are low-income, minority, limited-English-speaking, disabled, and elderly. The MPO makes efforts to ensure that its planning activities are holistic and will include all populations that are part of the regional community.

Notices on MPO Materials

WinFred MPO regularly publishes public notices for various efforts, such as the adoption of its UPWP, TIP, and MTP (refer to the right column). The following details the MPO's Title VI responsibilities for drafting and posting those public notices and materials.

Notices on All Printed Materials

WinFred MPO includes language from **page 14** on all printed information materials, on the agency's website, in press releases, in public notices, and in other published documents.

Notices for Filing Title VI Complaints

WinFred MPO prominently posts instructions for filing Title VI complaints on the agency's website. Refer to **page 5**.

The MPO's Recurring Roles and Function:

In the Unified Planning and Work Program (UPWP), the MPO is responsible for various tasks, including program administration, long-range planning, short-range planning, and special projects (as needed). With these tasks, the MPO is responsible for communicating its efforts with the public and numerous stakeholders. Therefore, communication and public participation are a central part of the MPO's activities. MPO staff is also responsible for developing and maintaining two transportation planning documents, the Metropolitan Transportation Plan (MTP), and the Transportation Improvement Program (TIP). All transportation projects that receive federal funds must be included in these documents. Therefore, the MPO and its stakeholders must work together to ensure that the projects listed in these two documents do not cause adverse effects to these specific population groups.

Note the organizational chart: The MPO's Marketing and Communications Manager is responsible for ensuring accessible communication.





Notices on Printed Materials

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For additional information on WinFred MPO's nondiscrimination policies and procedures or to file a complaint, please visit the website at www.winfredmpo.org or contact Brandon Davis, Executive Director, Northern Shenandoah Valley Regional Commission, 400 Kendrick Lane, Suite E, Front Royal, VA 22630, or by phone at (540) 636-8800, or by email at bdavis@nsvregion.org.



Notices for Filing Complaints

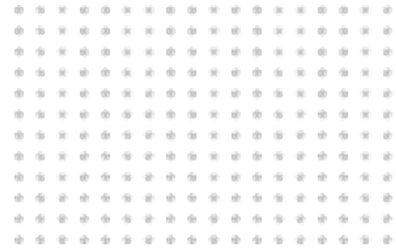
If you believe you have been subjected to discrimination under Title VI based on your race, color, national origin, or any aspect of this policy, you may file a complaint up to 180 days from the date of the alleged discrimination. The complain should include the following information:

- Your name, address, and how to contact your (i.e. telephone number, email address, etc.)
- How, when, where, and why you believe you were discriminated against.
- The location, names, and contact information of any witnesses.

The complaint may be filed in writing to:

Brandon Davis, Executive Director, Northern Shenandoah Valley Regional Commission, 400 Kendrick Lane, Suite E, Front Royal, VA 22630, or by email at bdavis@nsvregion.org.





Staff Training Related to the Title VI Program

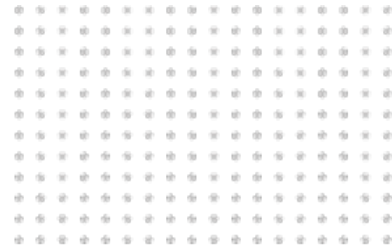
To continuously improve the WinFred MPO's overall compliance, the agency will conduct nondiscrimination training with FHWA, VDOT, DRPT, the Virginia Association of MPOs (VAMPO), and Winchester Transit (WinTran). These materials will be available to WinFred MPO staff on an ongoing basis to ensure up-to-date knowledge of Title VI and other nondiscrimination statutes. The Title VI Coordinator should check for or schedule training opportunities each quarter.

Communication and Public Participation

To reach all communities within the region, WinFred MPO makes every effort to be as inclusive and accessible as possible. As part of its existing Public Participation Plan (PPP), the MPO has numerous on-going activities to keep the public informed. These activities are listed below and in the PPP.

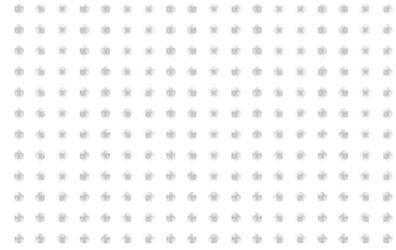
Ongoing Activities

- NSVRC staff will include the following Title VI statement in relevant press releases and on the MPO website: "Title VI of the 1964 Civil Rights Act (42 USC 2000d et seq) requires that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance".
- The NSVRC publishes information to the public about the Regional Commission's and MPO's activities. The email list for these reports includes a broad cross-section of civic organizations, business leaders, press members, leaders in education, public transit officials, elected officials, and members of the community who request to be added to notices.
- Staff at the NSVRC and WinFred MPO have full-time availability to respond to direct questions and inquiries from citizens' concerns on transportation plans, programs, and the region's transportation planning process. Staff will make presentations at the request of local civic organizations and routinely provide information to the local print and electronic media. Staff will be accessible to the public through various means, including e-mail, phone, and in-person discussions.



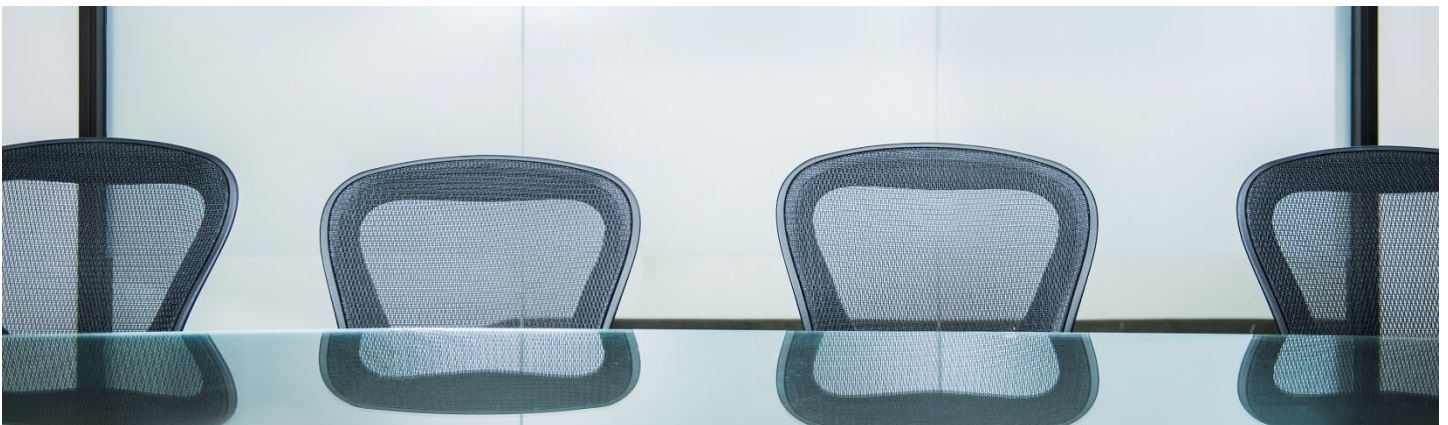
- The NSVRC maintains an extensive library of transportation, environmental, demographic, community planning, and GIS materials that are available for use by the public during the regular workday.
- The NSVRC and the WinFred MPO maintain relationships with local academic institutions, making presentations to classes and periodically hosting an undergraduate or graduate intern on staff.
- To further engage with a diverse audience, the NSVRC maintains a Facebook and Twitter page to periodically update page followers on topics of interest related to the NSVRC and the MPO. This format easily disseminates information to the public.
- According to the provisions of SAFETEA-LU, the NSVRC and the WinFred-MPO maintain a list of “interested parties” and “stakeholder organizations.” NSVRC staff will include private citizens, public agencies, providers of freight services, private providers of transportation, representatives of public transportation, employee representatives of users of pedestrian walkways and bicycle transportation facilities, and representatives of the disabled. All citizens/groups requesting inclusion on the MPO mailing and e-mail list will be added.

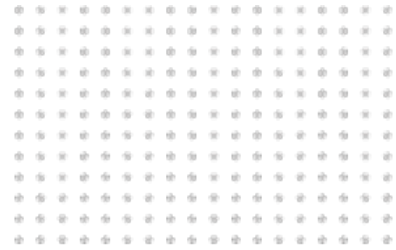




MPO Policy Board and Committee Meetings

- All MPO Policy Board and Committee meeting agendas will include meeting guidelines establishing time limits and procedures for public interaction with the Policy Board and Committees.
- As far as technically possible, MPO staff will facilitate virtual access to the MPO Policy Board and Committee members.
- All meetings of the Policy Board, Technical Committee, and other MPO committees will be open to the public and will occur in accessible locations to accommodate persons with handicaps and on public transit lines. In circumstances where electronic meetings are authorized and held, MPO staff will post meeting information on the MPO website at the time that the agenda is posted with details on how the public can access the meeting. Meeting information will also be distributed electronically.
- MPO staff will make every effort to schedule public hearings, workshops, and forums at times that are accessible and convenient.
- MPO staff will arrange for interpreters for hearing impaired individuals, and every effort will be made to ensure provision of interpreters for non-English speaking persons, provided a request is submitted at least two business days before the meeting. For meetings conducted electronically, interpretation services may be provided through closed captioning options.

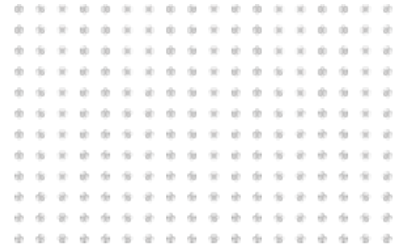




Transportation Planning Documents

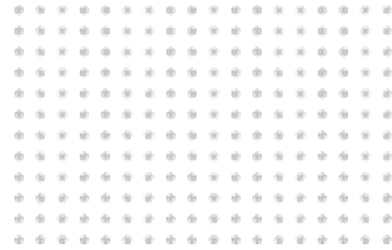
Regarding specific transportation plans, the MPO makes special efforts to facilitate an accessible and equitable approach. While developing planning documents, MPO staff makes every effort to not only ensure that these plans consider minority and low-income populations, but also attempt to include these groups in the engagement process. Each process is unique and tailored to the specific planning effort. Below is a list of methods and approaches that MPO staff can use during plan development.

- Encourage and accept public input using various strategies and tactics, such as by mail, in person, through website comments, over the phone, through community surveys, and via e-mail.
- Include a broad segment of the population in the development of programs, plans, and studies by conducting regional workshops.
- Conduct focus group meetings in traditionally underserved communities to ensure the interests of these groups are incorporated into long range planning efforts.
- Personally meet with vulnerable communities to identify needs.
- While developing the MTP and TIP, the MPO will consult with agencies and officials responsible for other planning activities within the MPO that are affected by transportation or coordinate its planning process with such planning activities.
- The MPO will provide an additional opportunity for public comment if the final MTP, TIP, or other transportation plans differ significantly from the version that was previously available to the public.



Communications with the Public and Community Organizations

- The MPO will coordinate with the statewide transportation planning public involvement and consultation process, as appropriate.
- The MPO will identify and communicate with traditionally underserved groups, such as those with disabilities and low-income people, through organizations and media outlets known to serve these populations.
- The MPO identified locations of low income and minority communities using Geographic Information Systems (GIS) and included this mapping data in **Section 4**. The MPO will also seek input from these communities throughout the planning phase, and specifically for the TIP and MTP updates. Methods for communicating to this audience may include:
 - Presenting at or sponsoring a community meeting in the targeted area,
 - Seeking representatives from the community to participate in MPO meeting(s), and
 - Seeking representatives from the community or from service agencies familiar with the needs of these underserved populations.
- Information regarding achievement of goals and deliverables identified in the UPWP will be available for public review. A final report on the UPWP will be prepared and available for public review annually.
- MPO staff will accommodate individuals that require special assistance to review meeting materials and other documents and reports.



Title VI Complaint Procedures

Any individual may exercise his or her right to file a complaint with the WinFred MPO if that person believes that s/he or any other program beneficiaries have been subjected to unequal treatment or discrimination in the receipt of benefits/services or prohibited by non-discrimination requirements.

The WinFred MPO will follow the Nondiscrimination Complaint Procedures, as described below:

1. All written complaints received by the MPO shall be referred immediately by the MPO's Title VI Coordinator to the VDOT's Central Office: Civil Rights Division and FHWA District Office.
2. These procedures apply to all complaints filed under Title VI of the Civil Rights Act of 1964 as amended, and the Civil Rights Restoration Act of 1987, relating to any program or activity administered by the MPO, as well as to subrecipients, consultants, and/or contractors. Intimidation or retaliation of any kind is prohibited by law.
3. These procedures do not deny the right of the complainant to file formal complaints with other

Annual Review of Title VI Program:

Each year, in preparing for the Annual Report and Updates, the Title VI Coordinator and Liaison(s) will review the agency's Title VI program and ensure implementation of this Plan. In addition, they will review the agency's guidelines and publications, including those for contractors, to verify that Title VI language and provisions are incorporated, as appropriate.

Title VI Clauses in Contracts:

In all procurements requiring a written contract, WinFred MPOs contract will include the federal nondiscrimination clauses. The Title VI Coordinator will work with the Senior Program Operations Manager to ensure this language is included in all contracts.

state or federal agencies, or to seek private counsel for complaints alleging discrimination. These procedures are part of an administrative process that does not provide for remedies that include punitive damages or compensatory remuneration for the complainant. Every effort will be made to obtain early resolution of complaints by the FHWA.

4. In accordance with federal law, FHWA will require that recipients of federal assistance notify FHWA of any law suits filed against the recipient or sub-recipients of federal assistance or alleging discrimination; and a statement as to whether the recipient or sub-recipient has been found in noncompliance with any relevant civil rights requirements.
5. Pursuant to the Virginia Public Records Act (VPRA) § 42.1-76 et seq., the MPO will retain Discrimination Complaint Forms and a log of all complaints filed with or investigated by the MPO.
6. Records of complaints and related data will be made available by request in accordance with the Virginia Freedom of Information Act.

Procedures

Who can file?

Any person who believes they—or a specific class of persons—were subjected to discrimination on the basis of race, color, or national origin in the programs and activities of a primary Recipient of Federal financial assistance (e.g. VDOT), Subrecipient (e.g., the WinFred MPO), or an MPO Subrecipient such as an MPO contractor or consultant, may file a Title VI complaint.

Where can one file?

Complaints related to the Federal-aid highway program may be filed with the WinFred MPO, VDOT, a FHWA Division Office, the FHWA Headquarters Office of Civil Rights (HCR), the USDOT Departmental Office of Civil Rights, or the USDOJ.

When must one file?

According to USDOT regulations, 49 CFR §21.11(b), a complaint must be filed not later than 180 days after the date of the last instance of alleged discrimination, unless the time for filing is extended by the processing agency.

What should a complaint look like?

The complaint must be submitted using the appropriate Title VI form, which is included as an appendix to this document, and posted on the WinFred MPO website. Complaints should be signed, and may be filed by mail, fax, in person, or e-mail.

The complainant may request a complaint form by contacting the NSVRC at (540) 636-8800, or Brandon Davis, NSVRC Executive Director, at bdavis@nsvregion.org.

The complainant may call the receiving agency and provide the allegations by telephone, and the agency should transcribe the allegations of the complaint as provided over the telephone and send a written complaint to the complainant for correction and signature.

How are complaints routed?

FHWA is responsible for all decisions regarding whether a complaint should be accepted, dismissed, or referred to another agency. FHWA notes that FHWA Division Offices do not investigate Title VI complaints, and Recipients such as VDOT; Subrecipients such as the WinFred MPO; and MPO Subrecipients, such as MPO contractors and consultants do not investigate complaints filed against themselves.

- All complaints should be routed to the FHWA Headquarters Office of Civil Rights (HCR) for processing. HCR is responsible for all determinations regarding whether to accept, dismiss, or transfer Title VI complaints filed against VDOT, the WinFred MPO, and MPO subrecipients, contractors, and consultants.
- Complaints should be forwarded from the initial receiving agency through the Federal-aid highway oversight hierarchy until the complaint reaches HCR. For example, if a complaint is filed with the WinFred MPO, the MPO should forward the complaint to VDOT, which should forward the complaint to the State's FHWA Division Office, which should forward the complaint to HCR. If a complaint is filed with an MPO subrecipient, contractor, or consultant, then the MPO should forward the complaint to VDOT, which should forward the complaint to the State's FHWA Division Office, which should forward the complaint to HCR.
- VDOT and the WinFred MPO must log all complaints received.
- When HCR decides on whether to accept, dismiss, or transfer the complaint, HCR will notify the Complainant, the FHWA Division Office, VDOT, and the MPO (where applicable).

Complaints against the WinFred MPO may also be sent to HCR directly at:

Postal Mail	Federal Highway Administration U.S. Department of Transportation Office of Civil Rights 1200 New Jersey Avenue, SE 8th Floor E81-105 Washington, DC 20590
Email	Civil.Rights.FHWA@dot.gov
Fax	202-366-1599
Questions	202-366-0693

Complaints against WinFred MPO Subrecipients, such as contractors and consultants, may be sent to the NSVRC at:

Postal Mail	400 Kendrick Lane, Suite E, Front Royal, VA 22630
Email	bdavis@nsvregion.org
Fax	(540) 636-8800
Questions	(540) 636-8800

What are the potential outcomes for processing a complaint?

There are four potential outcomes for processing complaints:

- **Accept:** if a complaint is timely filed, contains sufficient information to support a claim under Title VI, and concerns matters under FHWA’s jurisdiction, then HCR will send to the complainant, the respondent agency, and the FHWA Division Office a written notice that it has accepted the complaint for investigation.
- **Preliminary review:** if it is unclear whether the complaint allegations are sufficient to support a claim under Title VI, then HCR may (1) dismiss it or (2) engage in a preliminary review to acquire additional information from the complainant and/or respondent before deciding whether to accept, dismiss, or refer the complaint.
- **Procedural Dismissal:** if a complaint is not timely filed, is not in writing and signed, or features other procedural/practical defects, then HCR will send the complainant, respondent, and FHWA Division Office a written notice that it is dismissing the complaint.
- **Referral\Dismissal:** if the complaint is procedurally sufficient but FHWA (1) lacks jurisdiction over the subject matter or (2) lacks jurisdiction over the respondent entity, then HCR will either dismiss the complaint or refer

it to another agency that does have jurisdiction. If HCR dismisses the complaint, it will send the complainant, respondent, and FHWA Division Office a copy of the written dismissal notice. For referrals, FHWA will send a written referral notice with a copy of the complaint to the proper Federal agency and a copy to the USDOT Departmental Office of Civil Rights.

The HCR is responsible for conducting all investigations of VDOT and other primary Recipients. In the case of a complaint filed against the WinFred MPO, HCR may either conduct the investigation itself, or it may delegate the investigation to VDOT. If HCR chooses to delegate the investigation of the MPO, HCR will communicate its acceptance of the complaint to the complainant and respondent, but VDOT will conduct all data requests, interviews, and analysis.

VDOT will then create a Report of Investigation (ROI), which it will send to HCR. Finally, HCR will review the ROI and compose a Letter of Finding based on the ROI.

What are the timeframes for investigations?

For FHWA, there is no regulatory timeframe for completing investigations. However, FHWA strives to complete all tasks within 180 days from the date of acceptance.

If VDOT has been delegated an investigation from FHWA, 23 CFR §200.9(b)(3) provides that State DOTs must complete investigations within 60 days of receipt (meaning the date it receives the delegated complaint from FHWA).

How do Investigating Agencies gather information?

There are no regulatory requirements for how information is gathered, but VDOT and HRMPO are required to keep detailed records on how they comply with Title VI and to provide USDOT with access to documents and persons with relevant information. 49 CFR §21.9. Typically, the respondent will receive at least one Request for Information and Position Statement (RFI) to gather documents, and additional requests if necessary. Concurrently, the HCR or VDOT investigator will schedule interviews with relevant parties and conduct site visits as necessary.

Once FHWA starts an investigation, what are the potential outcomes?

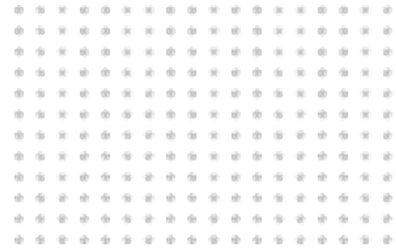
At any time during the investigation, either FHWA or the respondent may initiate informal negotiations to resolve the issues. The FHWA always strives to resolve Title VI complaints informally if possible.

In the absence of such negotiations, HCR (or VDOT) will draft a Report of Investigation, which should contain all relevant data and findings, with legal conclusions and potentially include recommendations for action. FHWA is

responsible for the final disposition of all complaints, including initiation and conduct of informal negotiations and the issuance of Letters of Finding (LOFs).

There are five potential outcomes for concluding an investigation:

1. The FHWA makes a finding of no violation and the case will be closed with no further action. The FHWA will issue an LOF stating in sufficient detail the reasons for the determination of no violation.
2. If, by a preponderance of the evidence, FHWA determines the respondent has failed to comply with its Title VI requirements or threatens to fail to comply by action or inaction, then FHWA will inform the respondent and the matter will be resolved by informal means whenever possible.
 - a. If FHWA informally resolves the matter with the respondent by agreement, then FHWA will hold the complaint in abeyance until the respondent completes its corrective actions. If the corrective actions are completed to the FHWA's satisfaction, then the complaint will be dismissed with no further action.
 - b. If FHWA cannot informally resolve the matter or the respondent does not complete agreed upon corrective actions, then FHWA may issue a LOF stating that the Recipient is in noncompliance with its Title VI obligations.
3. If FHWA issues a LOF of noncompliance to the respondent, the LOF will request that the respondent provide to FHWA, within 90 days, an action plan that implements the recommendations in the LOF.
4. If FHWA approves the action plan, then the respondent will be given a reasonable amount of time to implement the plan. At the end of the implementation period, FHWA will assess whether the respondent has sufficiently corrected the deficiencies.
5. If FHWA does not approve the action plan, or the respondent is nonresponsive/uncooperative, then FHWA may seek administrative sanctions, including, but not limited to, suspension or termination of Federal funds or any other means authorized by law such as referral to USDOT for enforcement.
 - a. If USDOT seeks to suspend or terminate funds, it must provide the respondent with an opportunity for a hearing on the record. If the Secretary of Transportation determines that the respondent has not complied with Title VI and voluntary compliance cannot be secured, USDOT must notify Congress before that finding goes into effect. 49 C



Consultant Contracts Administration

The MPO's Senior Project & Operations manager is responsible for recommending consultant firms for final selection, negotiation and award, and administering awarded consultant contracts. The MPO complies with all relevant federal and state laws in contract selection. MPO staff evaluate and monitor consultant contracts for compliance with nondiscrimination authorities.

MPO staff will:

- Ensure inclusion of nondiscrimination language in contracts and Requests for Proposals.
- Ensure that all consultants verify their compliance with nondiscrimination authorities, procedures, and requirements.
- Work with the recipient or sub-recipient, if found to be not in compliance with nondiscrimination authorities, to resolve the deficiency status and write a remedial action if necessary.
- Review outreach activities to ensure small, disadvantaged, minority, women, and disabled veteran businesses are not excluded to participate in opportunities to compete for consulting contracts.

As part of the Certifications and Assurances submitted to the Virginia Department of Transportation (VDOT) with the Annual Grant Application and all Federal Transit Administration grants submitted to VDOT, the MPO submits a Nondiscrimination Assurance which addresses compliance with Title VI, nondiscrimination in hiring (Equal Employment Opportunity) and contracting (Disadvantaged Business Enterprise), and nondiscrimination on the basis of disability. In signing and submitting this assurance, the MPO confirms to DRPT the agency's commitment to nondiscrimination and compliance with federal and state requirements.

Federal contracts normally must include provisions that require compliance with Title VI. The specific contract provision language is included in Appendixes A, B, C, D and E of the Title VI Assurances which each state has executed. Appendixes A and E apply to all federal-aid contracts and must be included as contract provisions. Examples of such contracts are:

- Construction contracts, both prime and subcontracts, and vendor/supply agreements.
- Consultant agreements for performance of work in connection with federal-aid highway projects. Typical ones are those for design work and environmental studies.
- Research agreements with colleges, universities, or other institutions.
- Fee appraiser and fee attorney contracts in connection with federally aided right-of-way work.
- Contracts between a STA and a contractor for relocation of utilities (does not apply when the utility company itself or its contractor relocates utilities).

Refer to **Appendix B** for U.S. DOT 1050.2A attachments.

Sub-recipients - Reviews and Monitoring

The MPO will conduct Title VI compliance reviews and monitoring of its sub-recipients of Federal-aid highway or other Federal funds, to ensure adherence to Title VI requirements. NSVRC staff will periodically confirm operational guidelines provided to consultants, contractors, and sub-recipients, including Title VI language, provisions, and related requirements, as applicable.

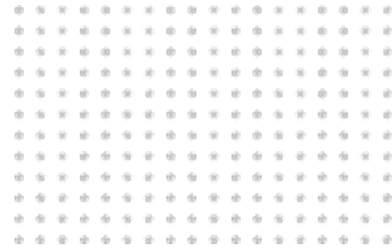
The NSVRC will also conduct periodic post grant reviews of select recipients of Federal highway funds or other Federal funds, for roads, sidewalks, bridges, municipal construction, etc. to ensure adherence to Title VI requirements.

When irregularities occur in the administration of Federal-aid highway programs at sub-recipient levels, corrective action will be taken to resolve identified Title VI issues. The NSVRC will seek the cooperation of the consultant, contractor or other sub-recipient in correcting deficiencies found during periodic reviews. The NSVRC will provide technical assistance and guidance, upon request, to support voluntary compliance by the sub-recipient.

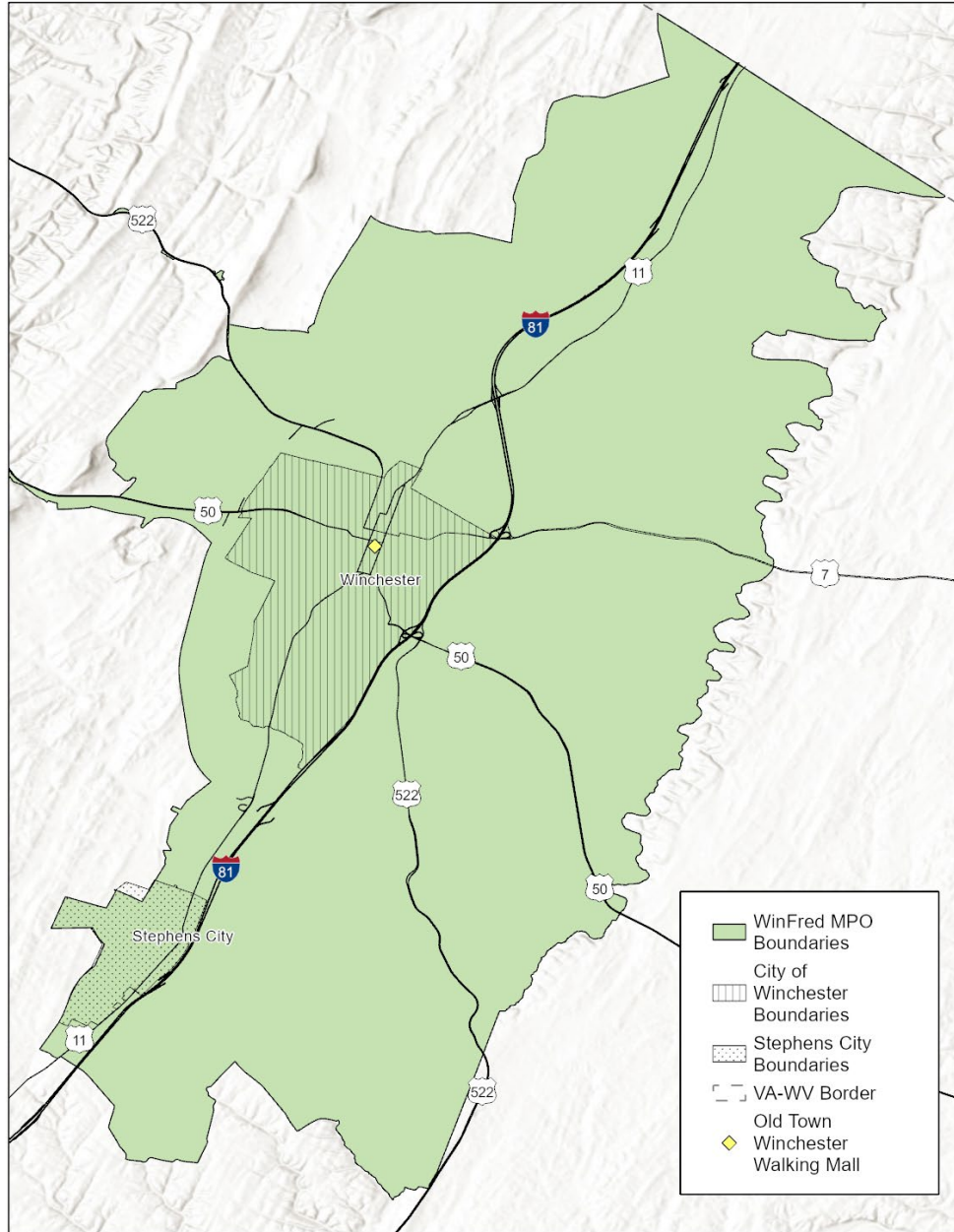
When a sub-recipient fails or refuses to voluntarily comply with requirements, the NSVRC will submit to VDOT’s Civil Rights Administrator -Title VI Coordinator copies of the case file and a recommendation that the sub-recipient be found in noncompliance.

A follow-up review will be conducted to ascertain if the sub-recipient has complied with the Title VI Program requirements in correcting deficiencies previously identified. If the sub-recipient refuses to comply, the WinFred MPO and VDOT may, with FHWA’s concurrence, initiate sanctions per 49 CFR 21.

SECTION 4. WINFRED MPO COMMUNITY CHARACTERISTICS



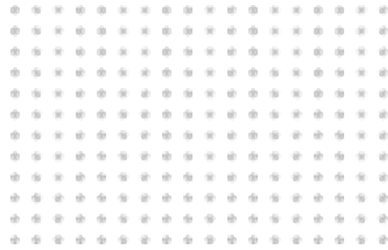
WinFred MPO Planning Area



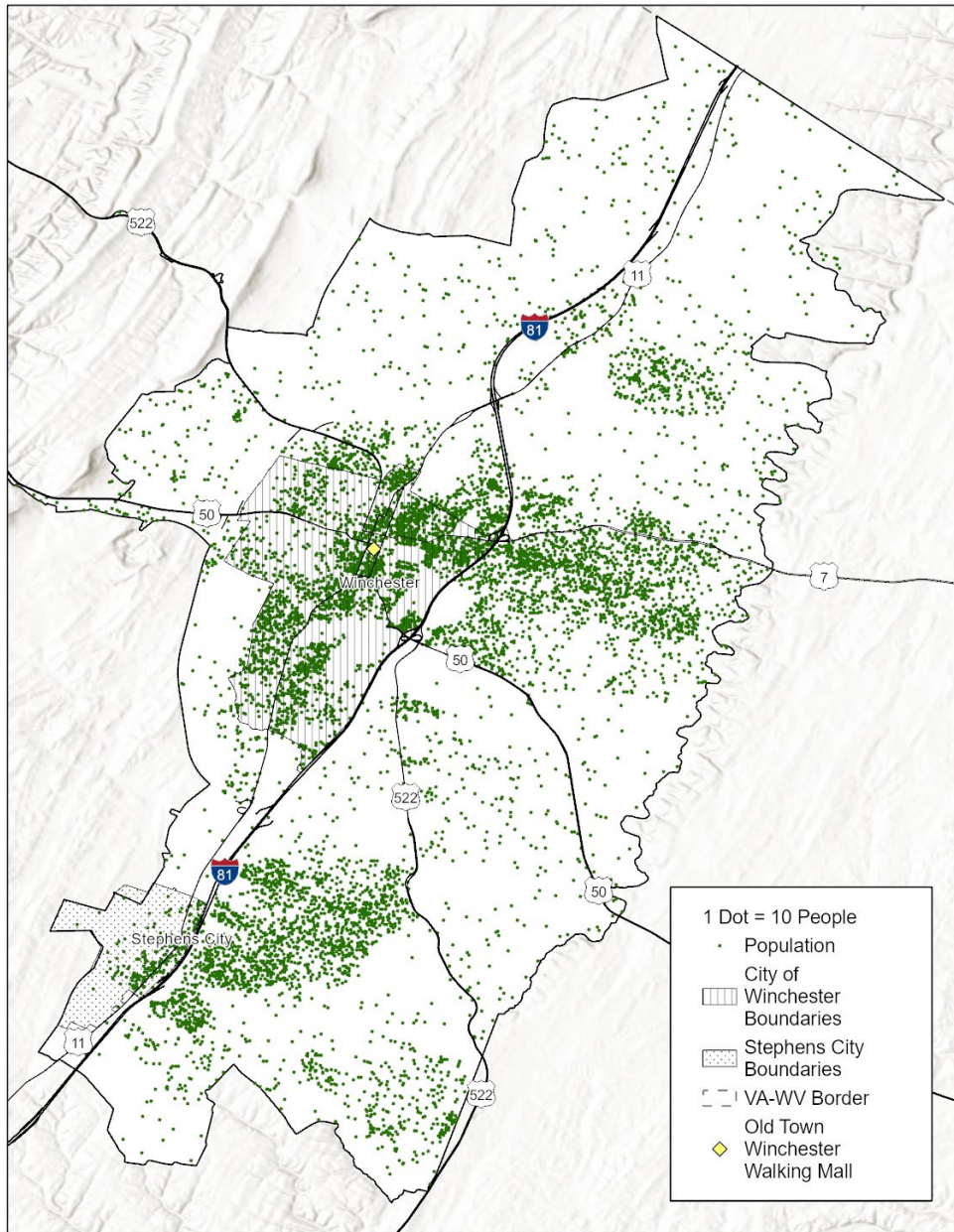
**Figure 1:
Metropolitan
Planning Area
(MPA)**

Figure 1 depicts the WinFred Metropolitan Planning Area (MPA) and provides context for the subsequent maps that illustrate the regional population by race, income, age, disability, access to personal vehicles, and LEP. The WinFred MPO boundaries extend north, to the state border of West Virginia, and south, to Stephens City. The Frederick County Boundary, Opequon Creek, defines most of the MPO's eastern limits.





Population Density

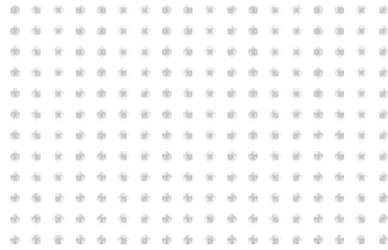


Data Source: U.S. Census Bureau
American Community Survey (ACS)
2017-2021 5-year estimates

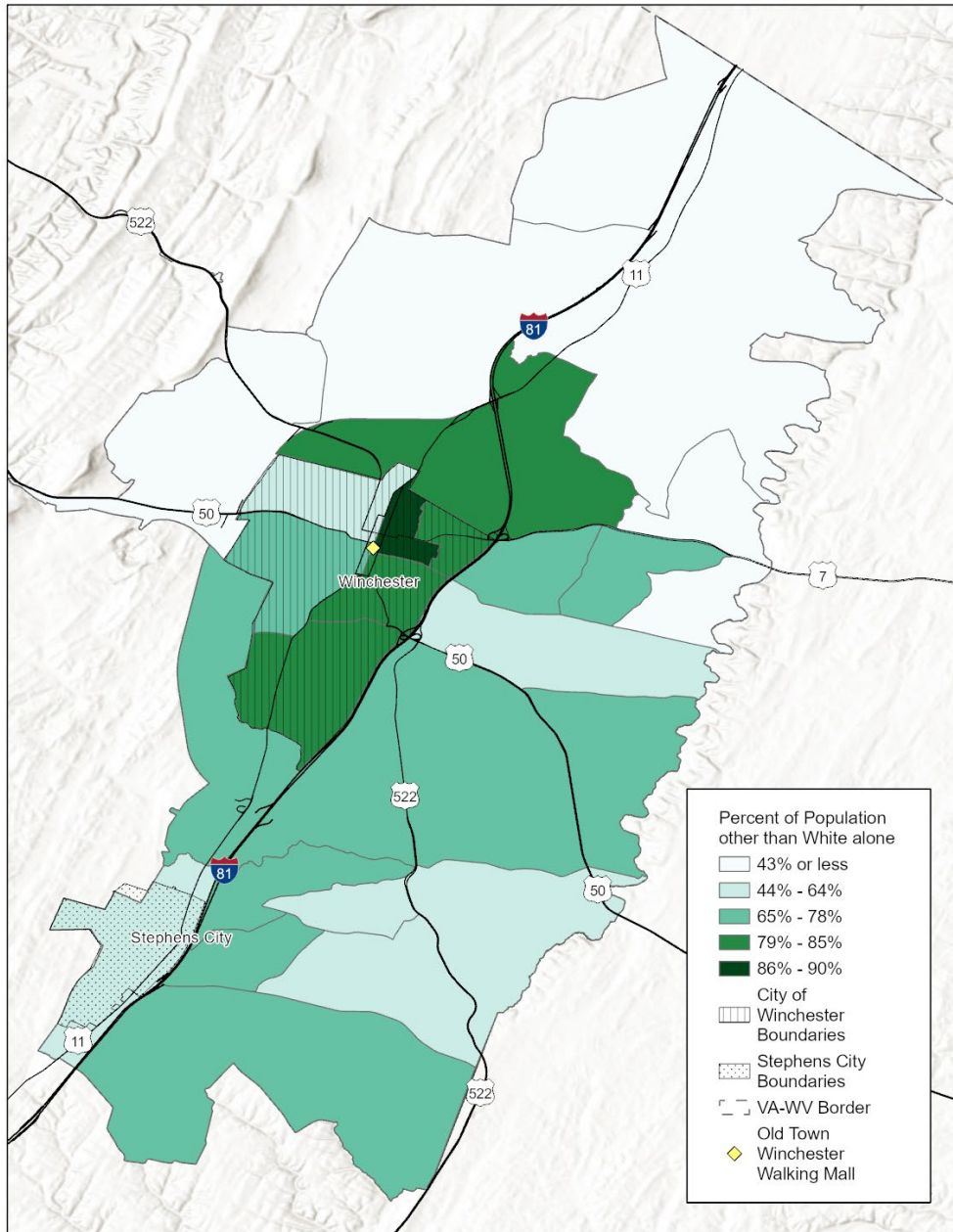
**Figure 2:
Population Density**

According to the U.S. Census Bureau, the region's highest densities are within the City of Winchester, the Route 7 corridor (east), and the area around Stephens City. To the northeast, there are higher densities around the Snowden Bridge development in Frederick County. These densities offer additional context to the themed maps on the following pages.





Race



Data source: U.S. Census Bureau
 American Community Survey (ACS)
 2017-2021 5-year estimates

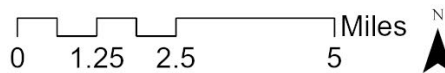


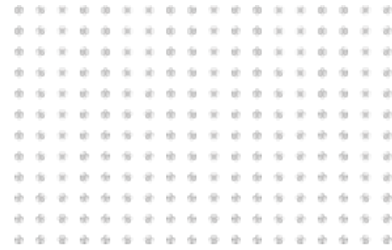
Figure 3: Race

Figure 3 illustrates the percentage of the minority populations for each census tract within the MPO area. Shades of dark teal represent higher concentrations of minority populations. The City of Winchester tends to have higher diversity, with less diverse census tracts to the north, in Frederick County. Note that the Census data on racial figures is highly variable.

However, this map offers a general distribution of diversity.

Actions: The MPO should target engagement efforts in these areas of darker teal. With higher population densities, those efforts would also reach more people.



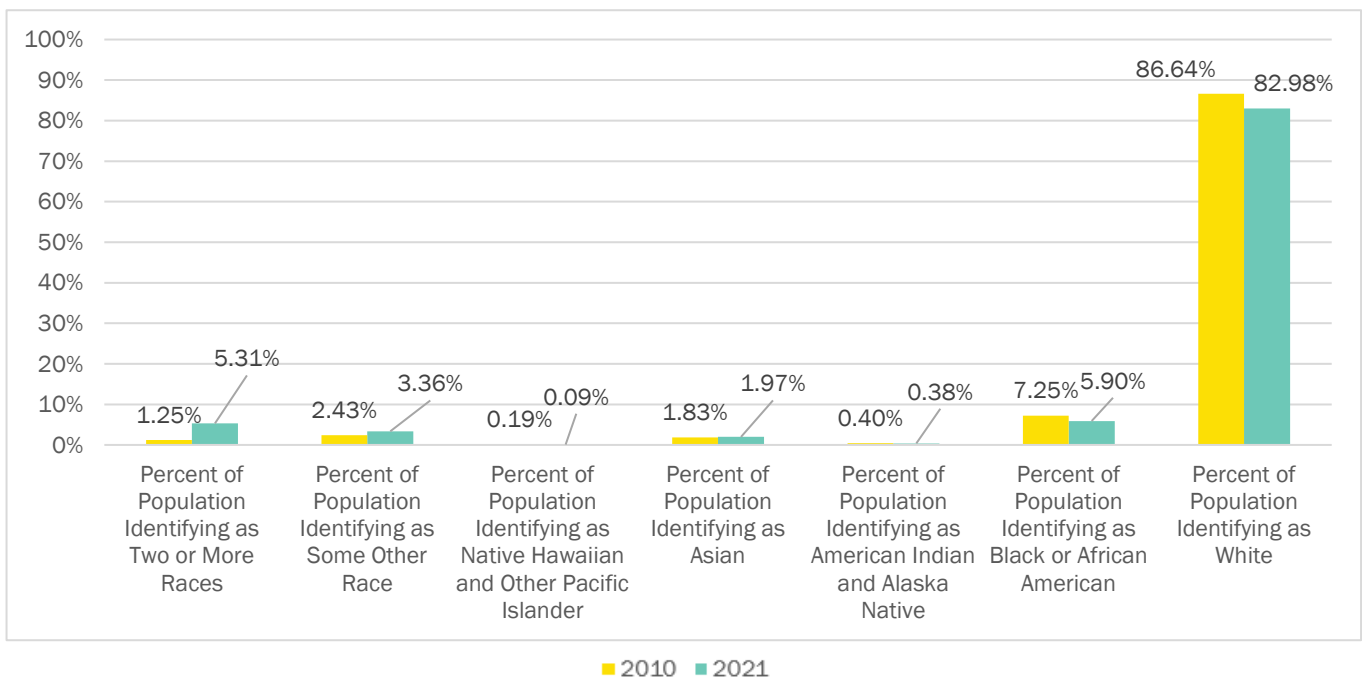


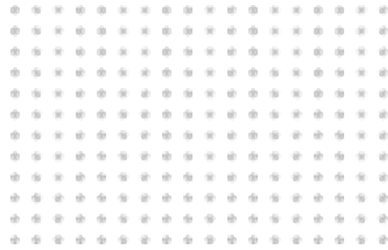
Race Demographics Trends

The following table details racial breakdown between 2010 and 2021, using the Census ACS data. According to those figures, the region continues to become more diverse. The percentage of people that identified as “White Only” decreased 3.66 percent since 2010. The African American population also shows a decrease of over one percent. However, note that the US Census race data is less reliable because respondents may change how they identify.

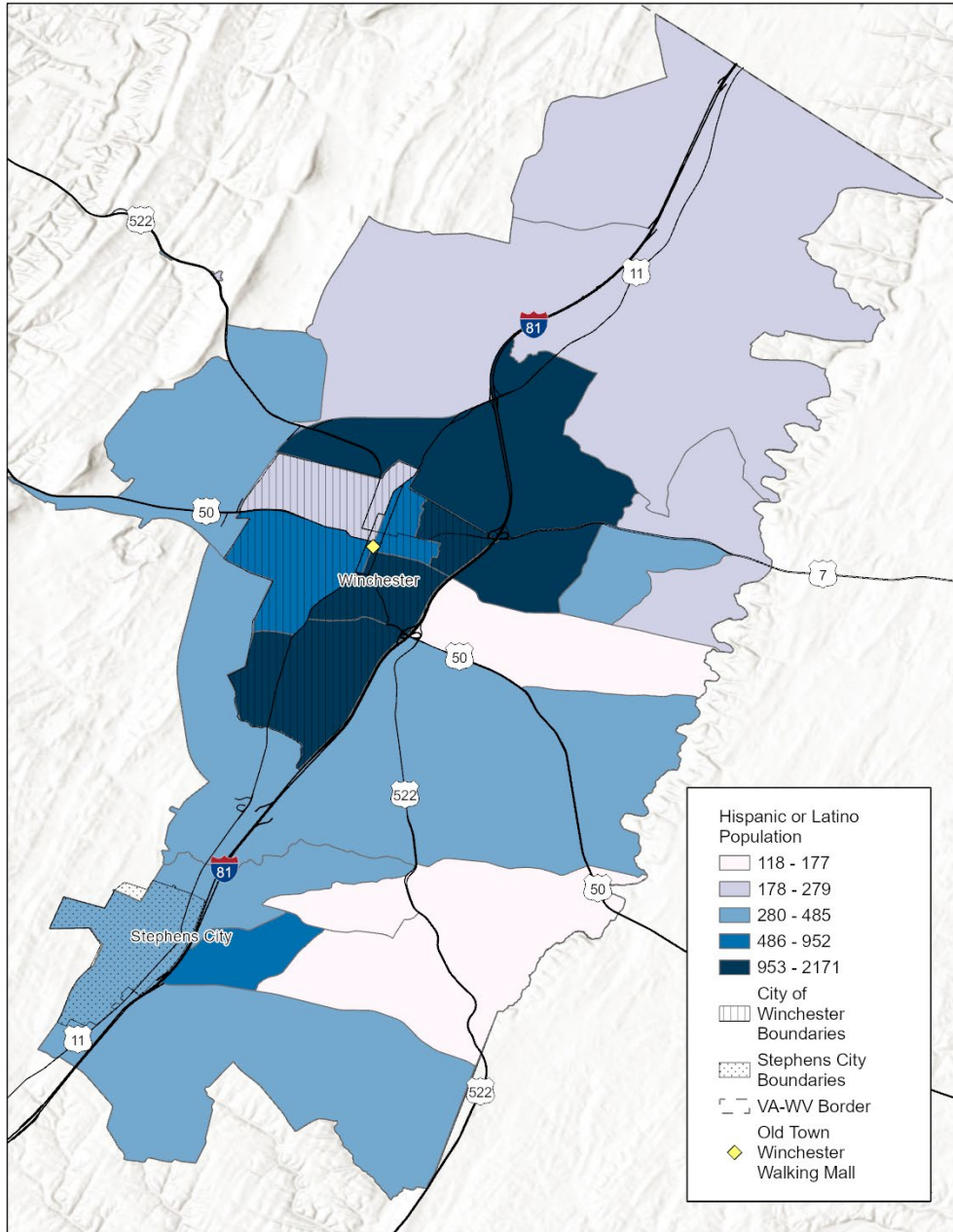
WinFred MPO: Race (2010 - 2021)	2010	2021
Percent of Population Identifying as White	86.64%	82.98%
Percent of Population Identifying as Black or African American	7.25%	5.90%
Percent of Population Identifying as American Indian and Alaska Native	0.40%	0.38%
Percent of Population Identifying as Asian	1.83%	1.97%
Percent of Population Identifying as Native Hawaiian and Other Pacific Islander	0.19%	0.09%
Percent of Population Identifying as Some Other Race	2.43%	3.36%
Percent of Population Identifying as Two or More Races	1.25%	5.31%

Source: U.S. Census Bureau's American Community Survey (ACS) 2006-2010, 2017-2021 5-year estimates





Hispanic or Latino Population



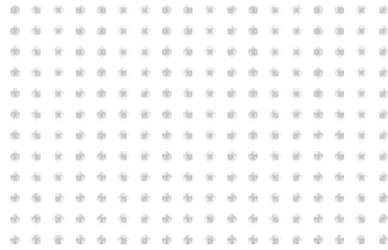
Data source: U.S. Census Bureau
 American Community Survey (ACS)
 2017-2021 5-year estimates



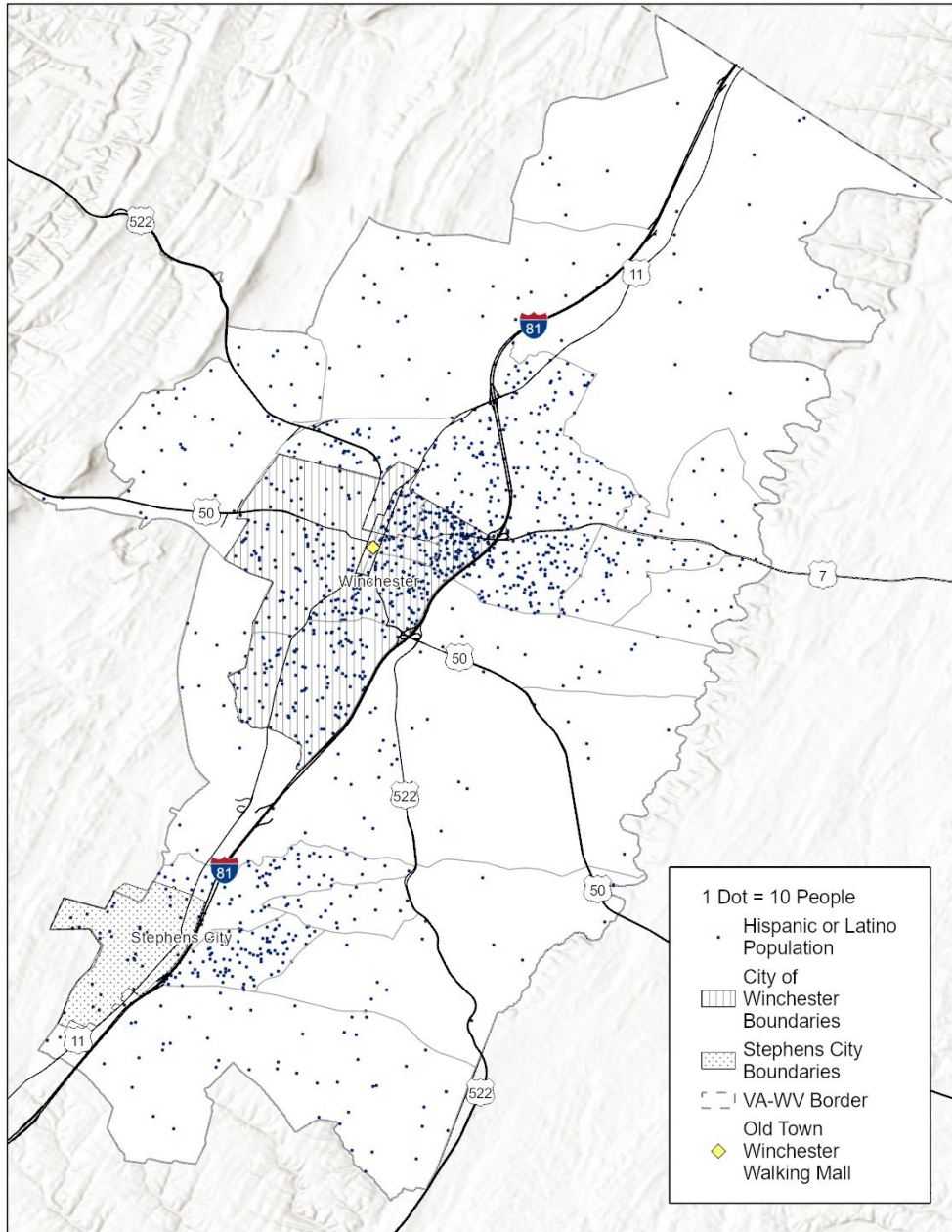
Figure 4: Hispanic or Latino Population

Figure 2 and 4 maps are similar, regarding the concentrations of minority groups. According to the US Census, there are higher concentrations of Hispanic and Latino populations in southern and eastern Winchester. Portions of Frederick County, north of the city, also have higher counts. Refer to the LEP Plan in Section 5 for more information.





Hispanic or Latino Population Density



Data source: U.S. Census Bureau
 American Community Survey (ACS)
 2017-2021 5-year estimates

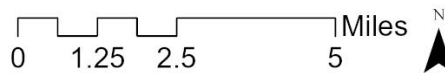


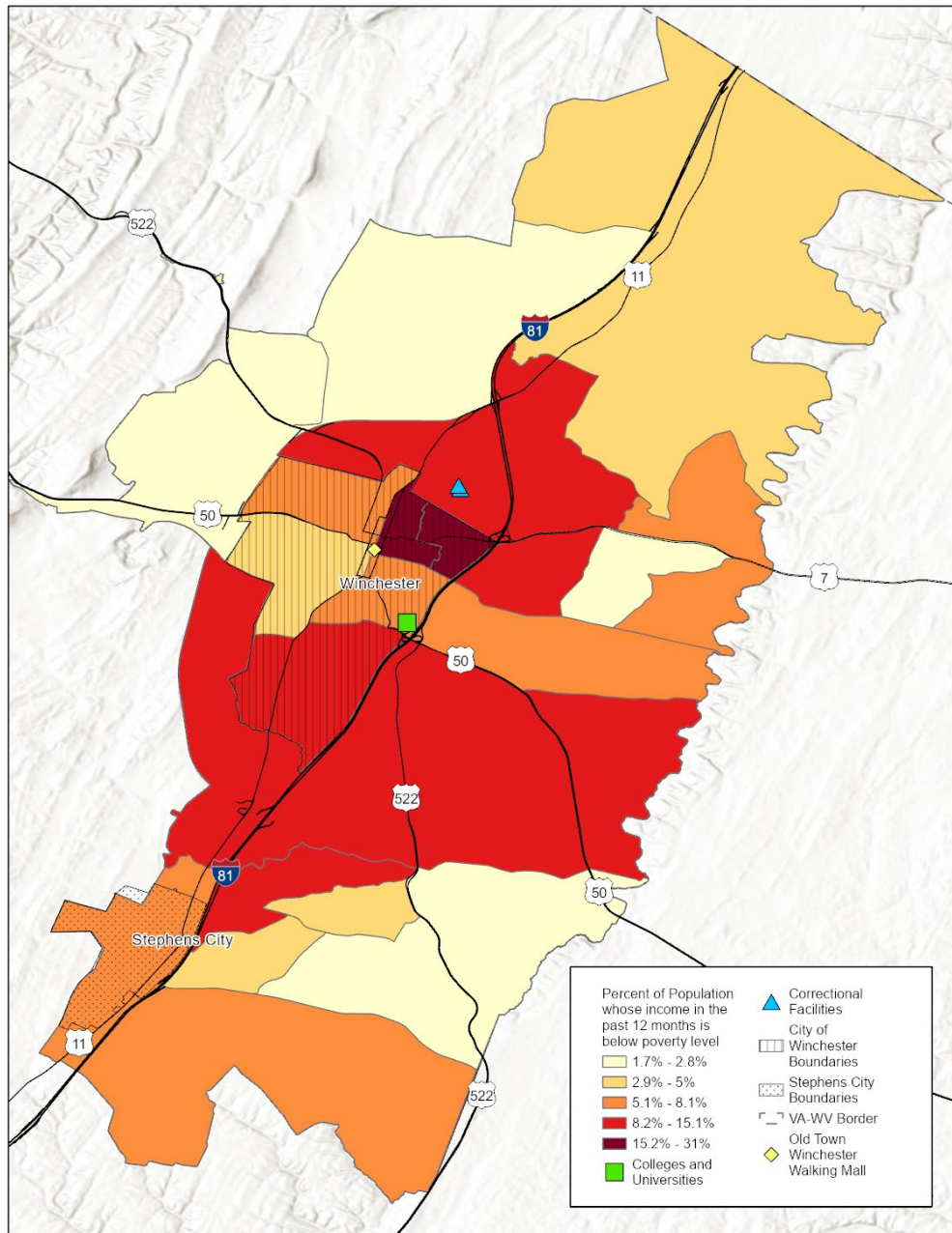
Figure 5: Hispanic or Latino Population

Figure 5 presents the same information from the previous map but depicts Hispanic and Latino individuals as dots. Each dot on this map represents ten people from these groups.

Actions: During engagement processes, the MPO should especially target the northeastern portion of Winchester and provide Spanish translation materials where there are concentrations of Hispanic and Latino groups. In terms of meeting locations, consider the Douglas School or the Charlotte DeHart Elementary School. Also consider the Salvation Army building.



Poverty



Data source: U.S. Census Bureau American Community Survey (ACS) 2017-2021 5-year estimates

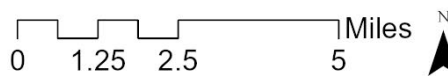
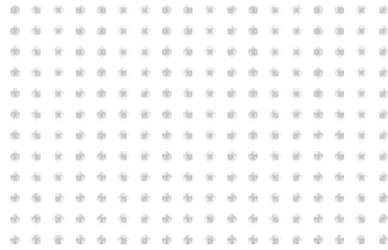
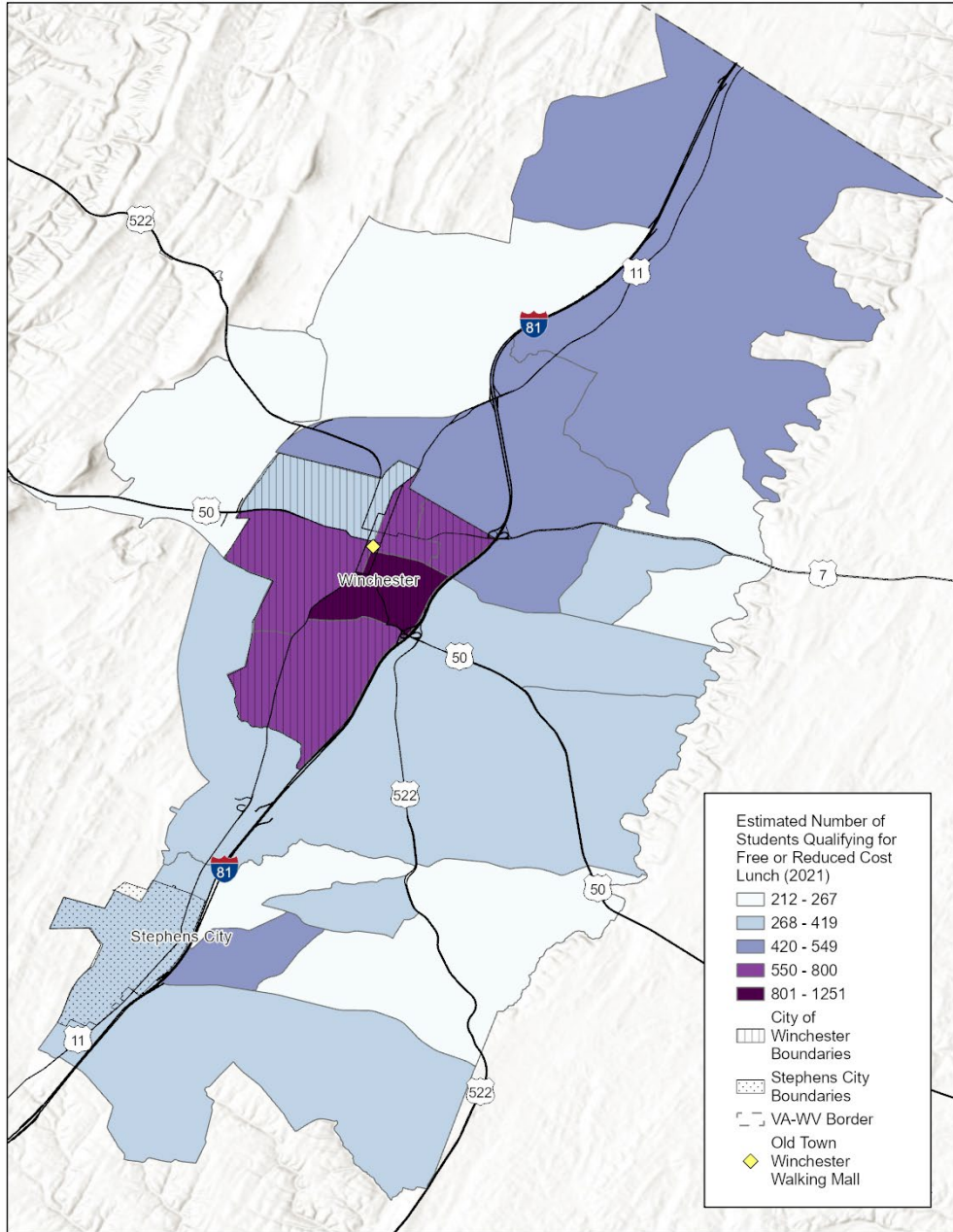


Figure 6: Low-Income

The map in figure 6 displays the percentage of residents (at the census tract level) living below the poverty line based on 2017-2021 ACS data. The darker shades of red denote tracts with higher percentages of individuals living below the poverty line. It is important to note that the data may be misleading, as there is a correctional facility and a university within the census tracts. Regarding the later population, students typically report lower incomes, thus placing them below the poverty threshold and causing the data to skew towards an inflated population in that category.



Free or Reduced Cost Lunch Program



Roughly calculated using U.S. Census Bureau American Community Survey (ACS) 2017-2021 5-year estimates

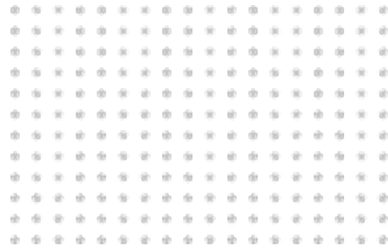


Figure 7: Free or Reduced Lunch Program

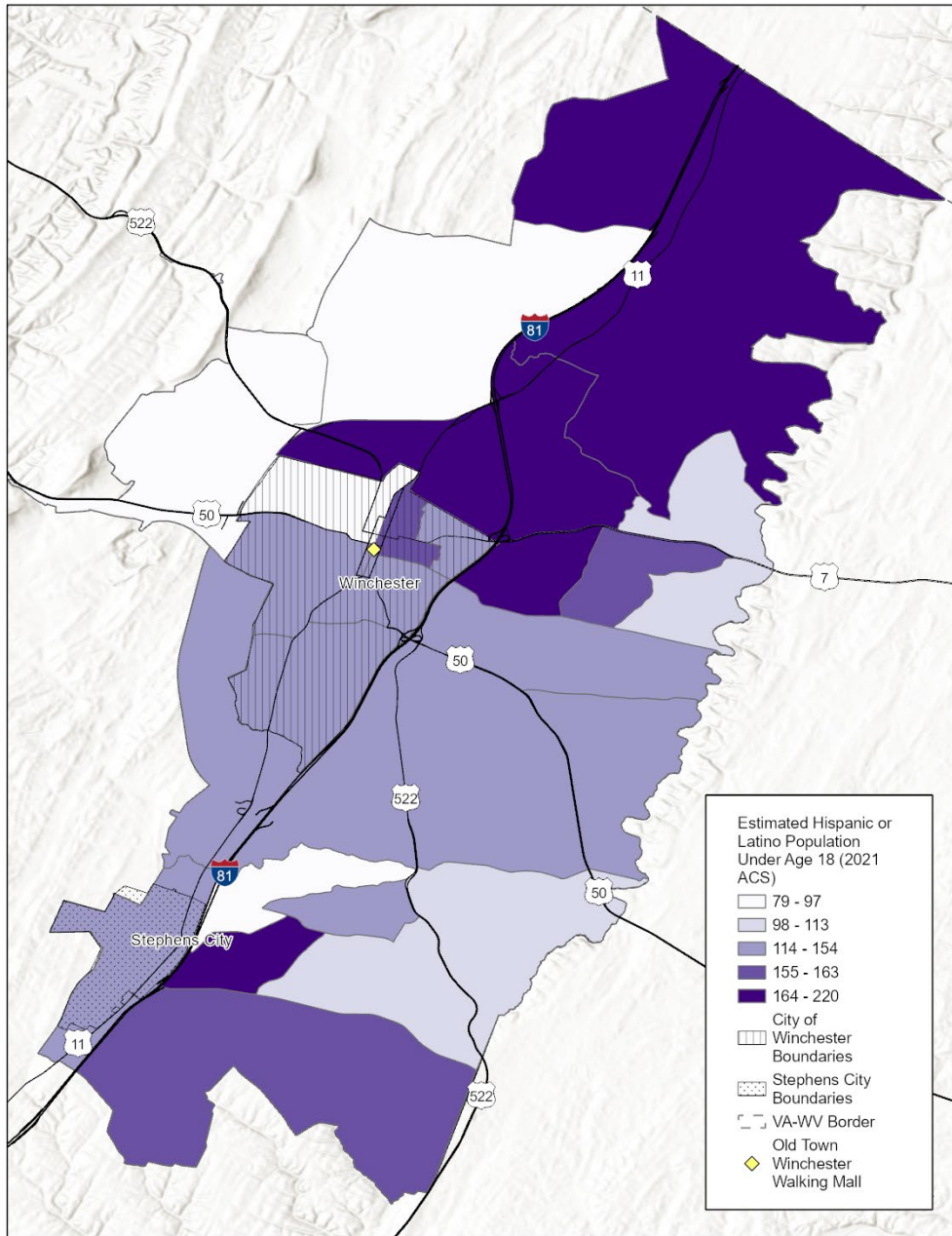
Related to poverty data, figure 7 depicts an estimated number of students by Census Tract that qualify for free or reduced lunch at school. Again, there are higher concentrations within the City of Winchester, especially in the area southeast of Oldtown.

Actions: During engagement processes, the MPO should also target the area east of Oldtown. For meeting locations, consider Daniel Morgan Middle School.





Estimated Hispanic or Latino Population Under Age 18



Roughly calculated using U.S. Census Bureau American Community Survey (ACS) 2017-2021 5-year estimates

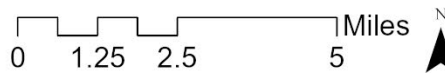
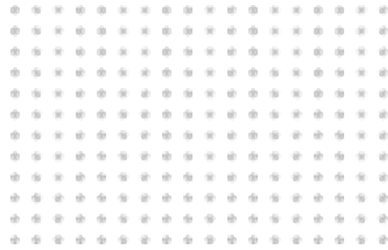


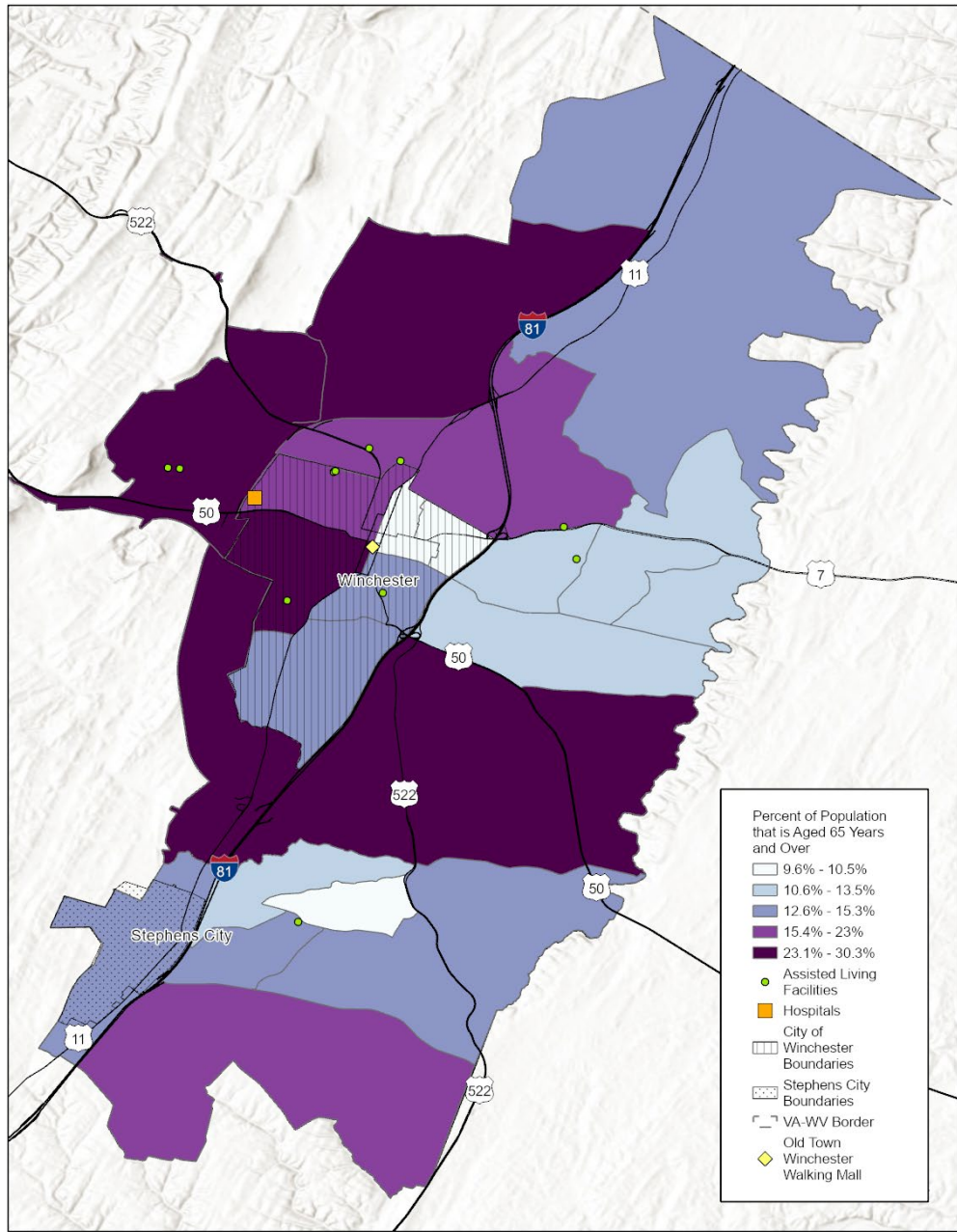
Figure 8: School Aged Hispanic Population

Figure 8 aims to complement the free and reduced lunch map from figure 7. This data hints that there may not be a strong correlation between income and Hispanic households.





Age



Data Source: U.S. Census Bureau
 American Community Survey (ACS)
 2017-2021 5-year estimates

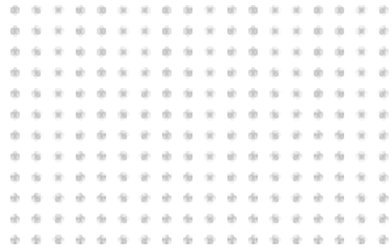


Figure 9: Age

The WinFred MPA is an aging regional community. Figure 5 represents the percentage of individuals aged 65 years and over at the census tract level, using data extracted from the 2017-2021 ACS data. Darker shades of purple indicate higher percentages of individuals in the “65 and over” age bracket. The map also highlights the location of assisted living facilities, which may skew the data.

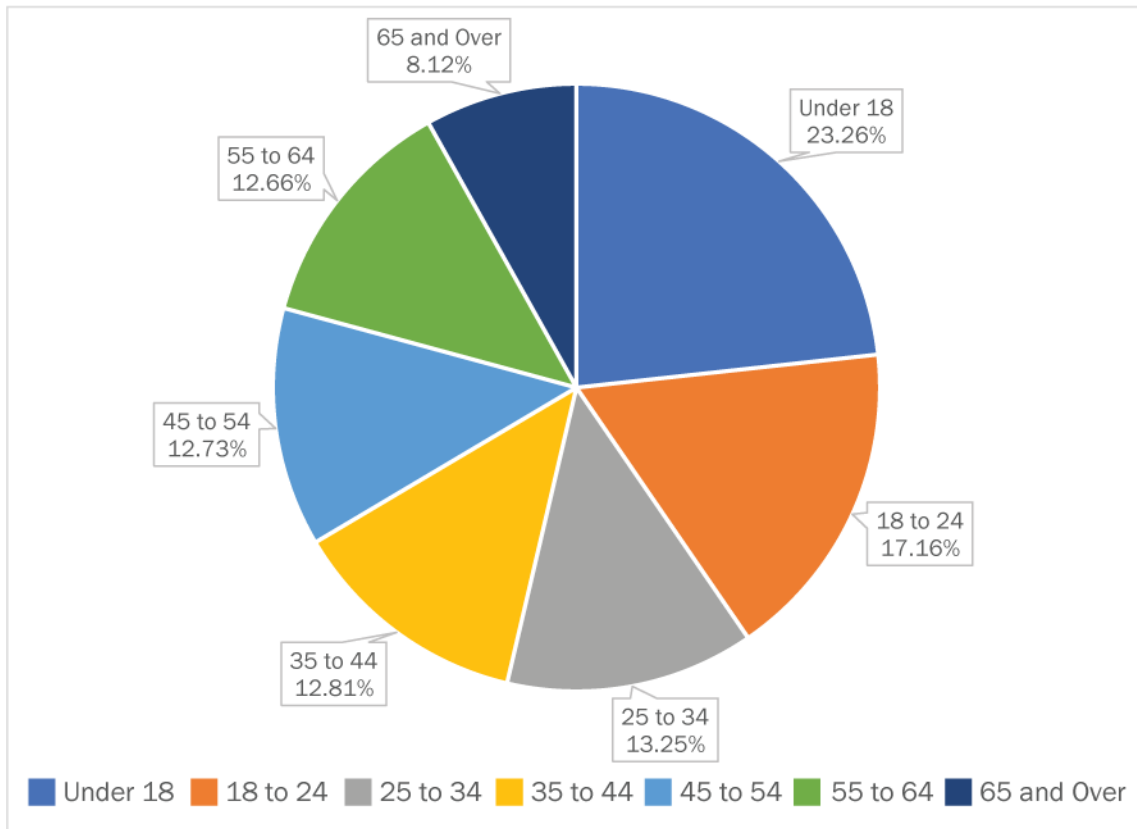
As people age, there is a higher likelihood for health and mobility issues, presenting obstacles to engagement and traveling. This map roughly correlates with figure 10 (disabilities) and figure 11 (vehicle access).





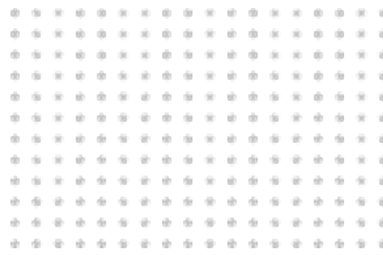
Aging Demographic Trends

While the WinFred MPA is an aging community, there is a significant proportion under age 18. Nearly a quarter of residents fit into this category, whereas approximately 17 percent are at or above age 65. Refer to table below for a 2021 population breakdown by age group. As the MPO considers its engagement processes and procedures, it should study how to interact with the younger quarter of the population, which is typically left out of the planning process, and the senior residents.

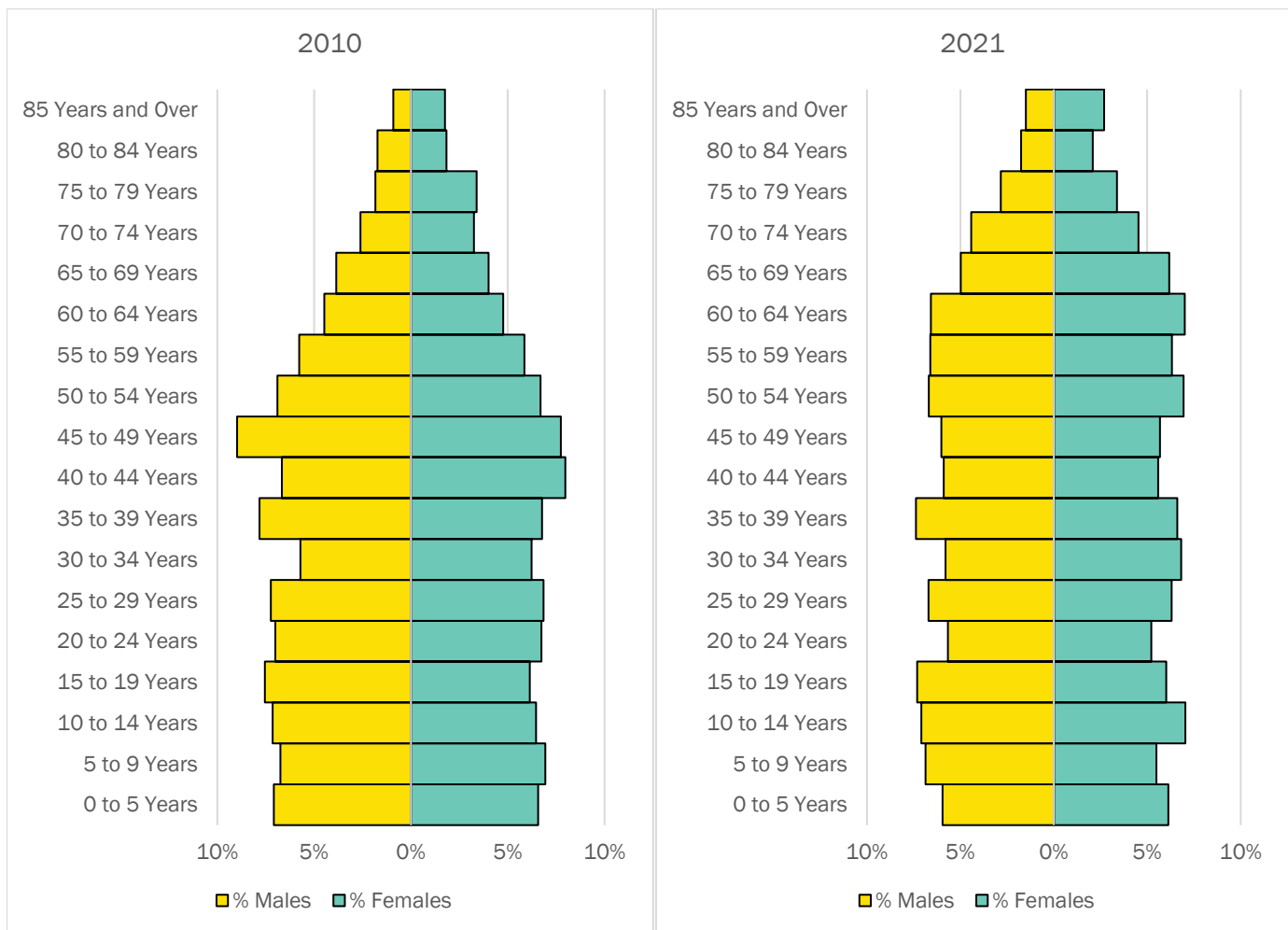


Source: U.S. Census Bureau's American Community Survey (ACS) 2006-2010, 2017-2021 5-year estimates





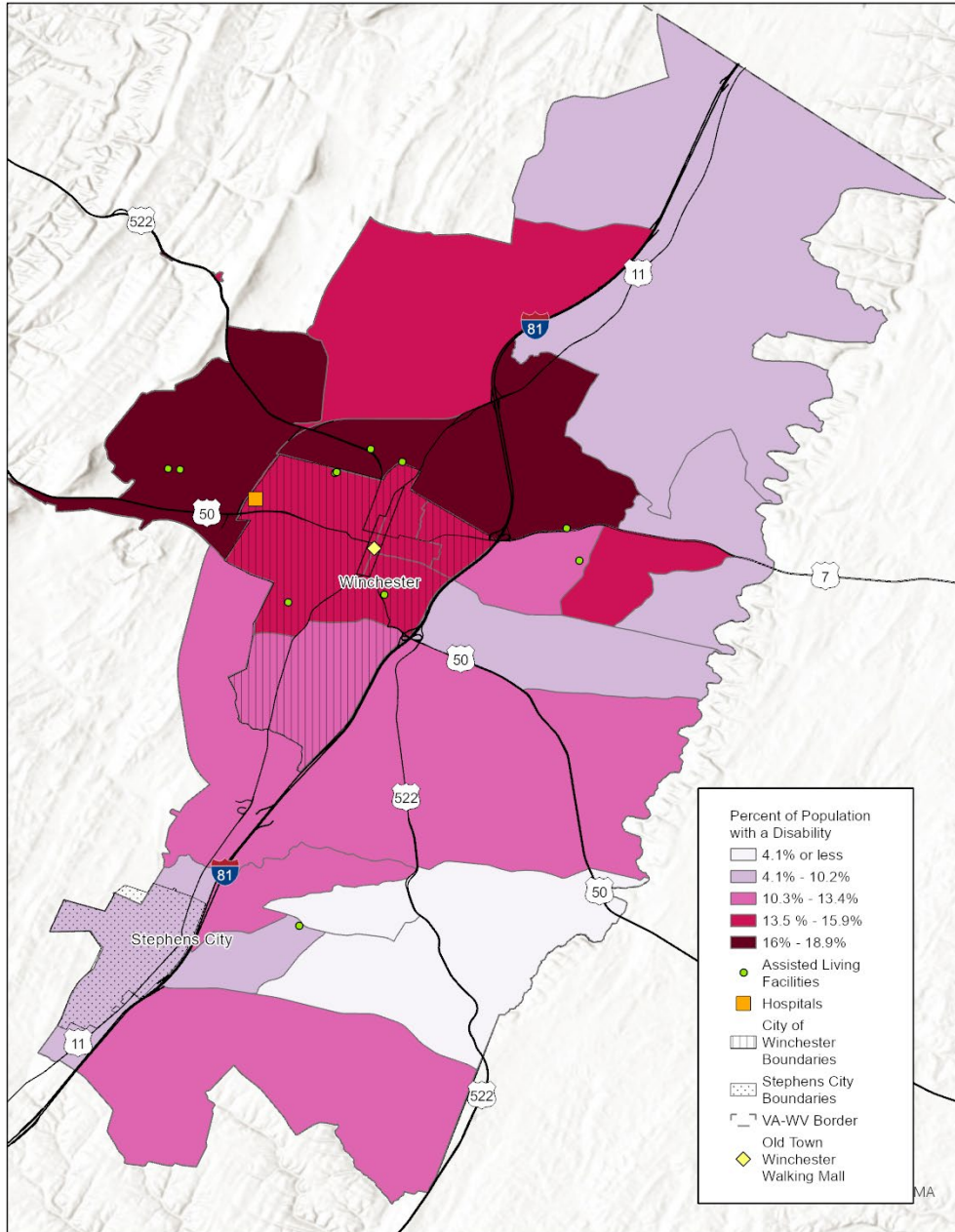
The following tables illustrate how age groups changed between 2010 and 2021. These pyramids depict age and gender. Over the past decade, data shows an aging population, as a “bulge” in the graphic indicates how older residents are advancing in age since 2010. As the community grows older, their travel needs will change and their ability to participate in the process may become limited. The MPO should focus special attention on addressing these needs.



Source: U.S. Census Bureau's American Community Survey (ACS) 2006-2010, 2017-2021 5-year estimates



Disability



Data source: U.S. Census Bureau
American Community Survey (ACS)
2017-2021 5-year estimates

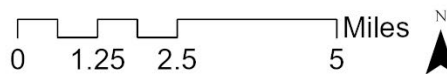
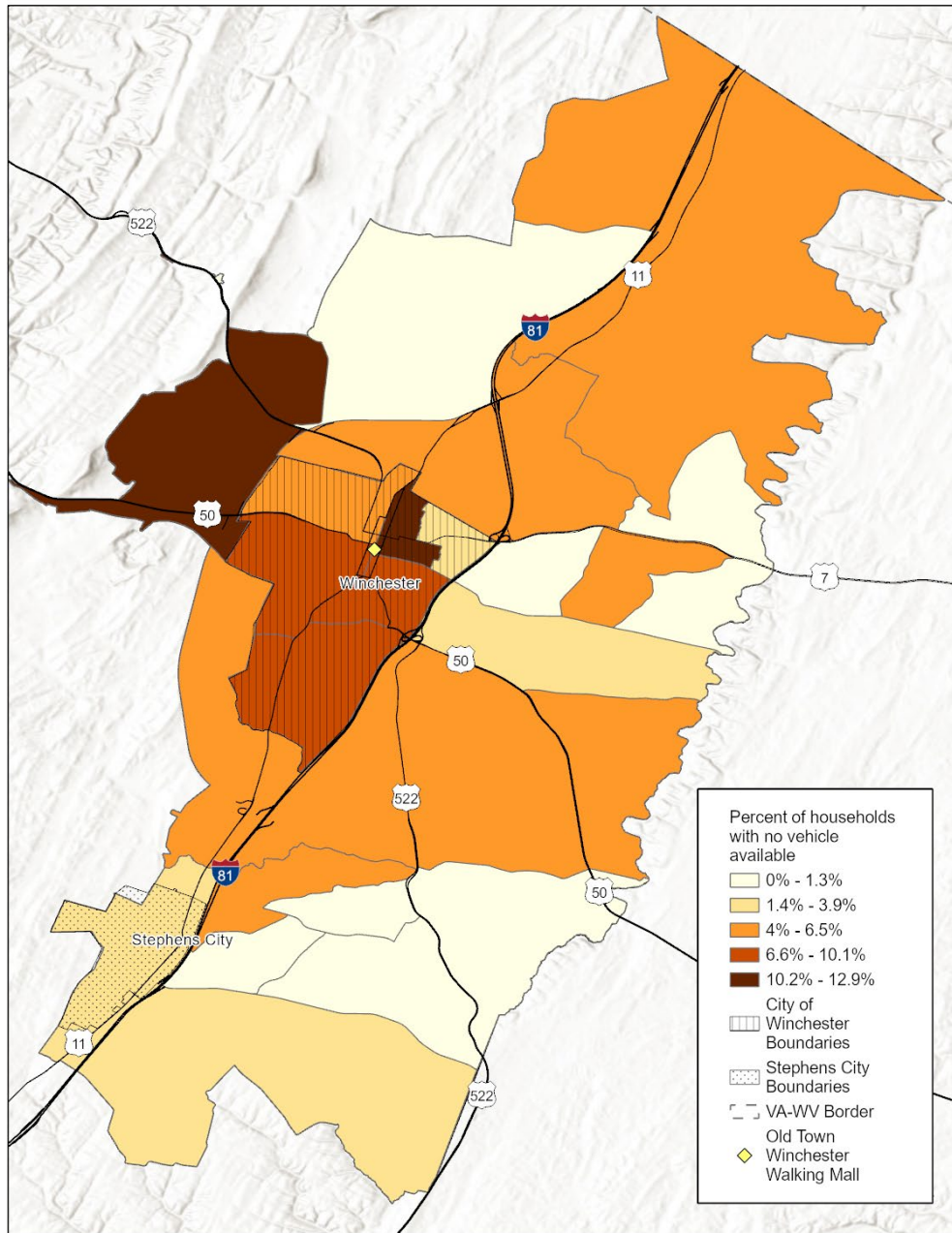


Figure 10: People with Disabilities

The data on people with disabilities strongly correlates with the map on aging. Figure 10 depicts the percentage of people (compared with total population per census tract) with a disability. The census tracts with a darker purple color indicate high rates of physical or cognitive disabilities. This map also identifies assisting living facilities that likely skew this data.

Vehicle Availability



Data source: U.S. Census Bureau
American Community Survey (ACS)
2017-2021 5-year estimates

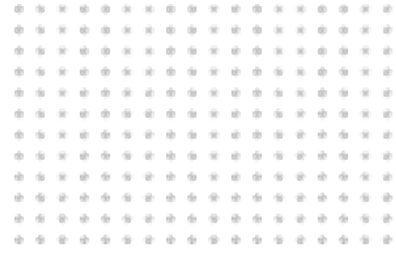


Figure 11: Vehicle Availability

This final map shows the percentage of people by census tract that do not have access to a personal vehicle. Areas depicted with a darker brown color indicate census tracts with less access and thus potentially limited mobility options. The assisted living facilities and correctional facility shown in previous maps may skew this data.

Actions: The MPO is aware of limited mobility in these areas, which should influence engagement and transportation recommendations. In these areas, transit is especially essential.

SECTION 5. LEP PLAN



Like the Environmental Justice Executive Order, the Limited English Proficiency Executive Order, signed by President Clinton in 2000, aims to avoid adversely affecting these populations and to develop strategies to better engage these groups in their larger community. By making materials and opportunities accessible to these LEP individuals, it becomes easier to communicate and perhaps determine methods of providing necessary resources.

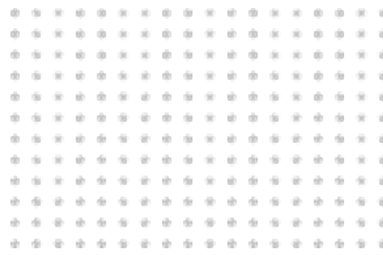
LEP Four-Factor Analysis

In considering how to access these populations, the MPO addresses and monitors four factors, which includes:

- **Demographics:** Knowing where the populations are located.
- **Frequency:** Determining how often the populations are contacted or engaged by the agency.
- **Importance:** Determining if the issues under consideration are important to these communities.
- **Resources:** Keeping an inventory of the resources available to engage these populations.

The four-factor analysis helps determine which language assistance services are appropriate to address the identified needs of the LEP population. Below is the four-step process taken by the WinFred MPO.



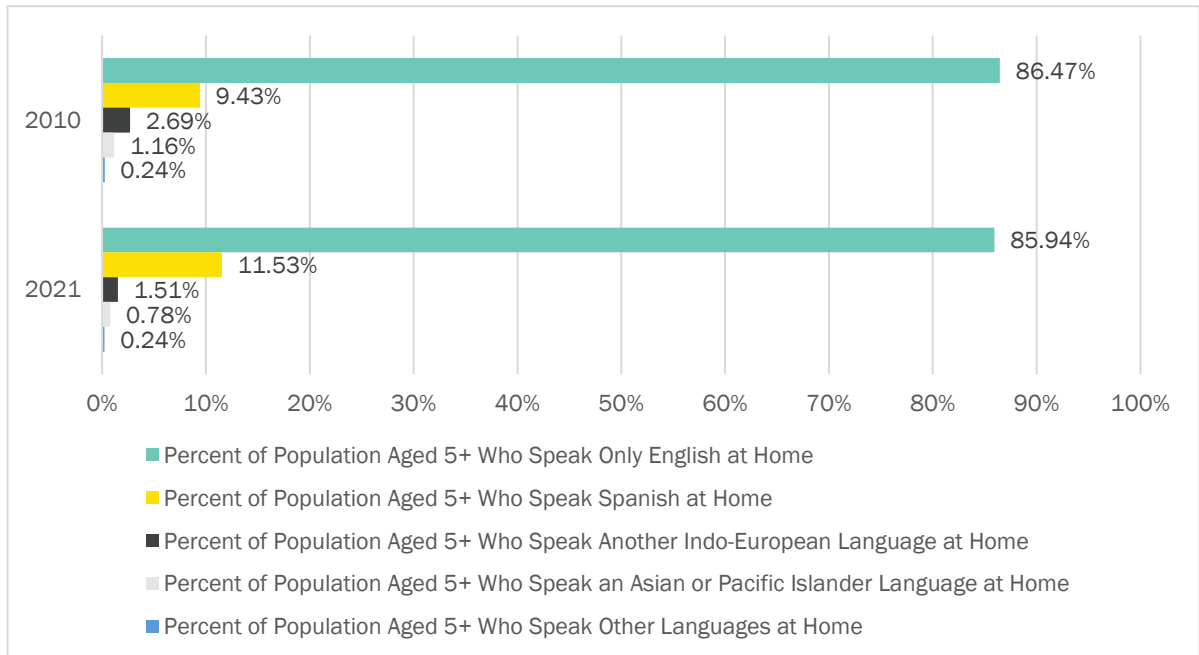


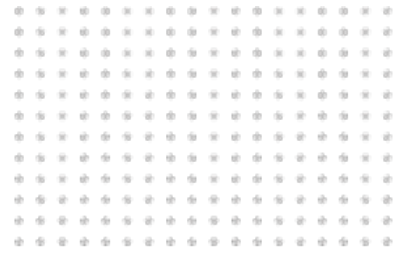
Factor 1: Demographics

The WinFred MPO reviewed Census data on the number of individuals in its service area that are LEP, as well as the languages that they speak. The following tables track the proportion and trends of language use in the WinFred MPA. Overall, Spanish is the most common non-English language in the region. The percentage of people speaking Spanish at home increased over the last decade, from 9.43 to 11.53 percent. Other non-English categories include various Indo-European languages, Asian or Pacific Islander languages, and other dialects. People that speak English and Spanish account for 97.47 percent of the region’s population.

WinFred MPO: Language Trend (2010 - 2021)	2010	2021
Percent of Population Aged 5+ Who Speak Spanish at Home	9.43%	11.53%
Percent of Population Aged 5+ Who Speak Another Indo-European Language at Home	2.69%	1.51%
Percent of Population Aged 5+ Who Speak an Asian or Pacific Islander Language at Home	1.16%	0.78%
Percent of Population Aged 5+ Who Speak Other Languages at Home	0.24%	0.24%
Percent of Population Aged 5+ Who Speak Only English at Home	86.47%	85.94%

Source: U.S. Census Bureau's American Community Survey (ACS) 2006-2010, 2017-2021 5-year estimates





Factor 2: Frequency

The WinFred MPO is rarely approached for information by any populations who do not have a reasonable adept grasp of the English language. The agency has made efforts for certain projects, like with the MTP update, to create materials in both English and Spanish should the project affect these populations, but this need is on a project-by-project basis. The WinFred MPO strives to make every effort to include all stakeholders that could be affected by the project, including LEP populations.

Factor 3: Importance

As stated above, the WinFred MPO provides materials for LEP populations if they are needed for a particular project. For example, staff engaged with a Spanish-speaking stakeholder during the 2045 MTP update that helped to translate materials, like a community survey, and conducted a Spanish voiceover for a commercial that detailed how the public can get involved.

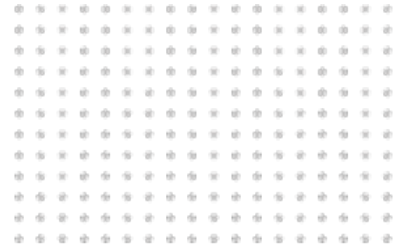
Factor 4: Resources

The following language assistance measures are currently being provided by the WinFred MPO.

- The MPO provides translators for MPO meetings for Spanish-speaking citizens if given at least two business days' notice. The MPO will do its utmost to provide translators for other languages if requested.
- The MPO will also make major plans available in a variety of languages if requested to do so. This agency aims to complete a document translation within a reasonable timeframe.
- For various projects, the MPO makes every effort to include all stakeholders in the planning and implementation process. When a project affects a LEP population, the WinFred MPO takes action to make the information about the project as accessible as possible.

Currently, this agency has not had to do any of the actions mentioned above. Because of this, it is difficult to assess the costs that would be incurred. The MPO is prepared for these costs should the need arise.

APPENDICES



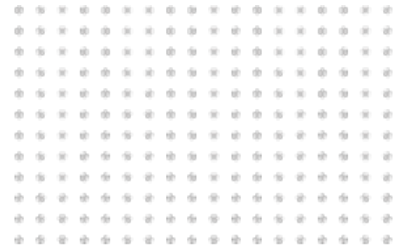
Appendix A: Commonly Used Terms and Acronyms

Appendix B: Title VI/Non-Discrimination Assurance

Appendix C: Discrimination Complaint Form



APPENDIX A: COMMONLY USED TERMS AND ACRONYMS



"3-C" Process. ("Continuing, Cooperative and Comprehensive") Language from federal legislation establishing MPOs/TPOs and used in reference to the regional transportation planning and programming process.

Intermodal Surface Transportation Efficiency Act. This 1991 legislation reauthorized federal surface transportation programs for highways, highway safety and transit for a six-year period, 1992 to 1997. ISTEA provided for significant expansion of MPO planning and programming authority and responsibilities. Replaced by TEA-21.

Metropolitan Transportation Plan. Serves as the initial step and framework in developing a regionally based network of transportation facilities and services that meets travel needs in the most efficient and effective manner possible.

Moving Ahead for Progress in the 21st Century. This was federal transportation reauthorization signed into law on July 6, 2012 and went into effect on October 1, 2012.

Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users. This was federal transportation legislation reauthorization signed into law on August 10, 2005. Replaced by MAP-21.

Acronyms:

- ACS – American Community Survey
- ADA – Americans with Disabilities Act
- CFR – Code of Federal Regulations
- DRPT – Department of Rail and Public Transportation
- DBE – Disadvantaged Business Enterprise
- EEO – Equal Employment Opportunity
- EJ – Environmental Justice
- FHWA – Federal Highway Administration
- FOIA – Freedom of Information Act
- FTA – Federal Transit Administration
- GIS – Geographic Information Systems
- ISTEA – Intermodal Surface Transportation Efficiency Act
- LEP - Limited English Proficiency
- MAP-21 – Moving Ahead for Progress in the 21st Century
- MPA – Metropolitan Planning Area
- MPO – Metropolitan Planning Organization
- MTP – Metropolitan Transportation Plan
- NSVRC - Northern Shenandoah Valley Regional Commission
- PPP – Public Participation Plan



WinFred MPO

TITLE VI / NONDISCRIMINATION ASSURANCE (DOT Order No.1050.2A)

The Winchester-Frederick County Metropolitan Planning Organization, (herein referred to as the "Recipient"), HEREBY AGREES THAT, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (DOT), through the *Federal Highway Administration*, is subject to and will comply with the following:

Statutory/Regulatory Authorities

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 C.F.R. Part 21 (entitled *Nondiscrimination In Federally-Assisted Programs Of The Department Of Transportation – Effectuation Of Title VI Of The Civil Rights Act Of 1964*);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

The preceding statutory and regulatory cites hereinafter are referred to as the "Acts" and "Regulations," respectively.

General Assurance

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

"No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity," for which the Recipient receives Federal financial assistance from DOT, including the Federal Highway Administration.

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Nondiscrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these nondiscrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

Specific Assurances

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its federally assisted Highway Program:

1. The Recipient agrees that each "activity," "facility," or "program," as defined in §§ 21.23 (b) and 21.23 (e) of 49 C.F.R. § 21 will be (with regard to an "activity") facilitated, or will be (with regard to a "facility") operated, or will be (with regard to a "program")

conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.

2. The Recipient will insert the following notification in all solicitations for bids, Requests For Proposals for work, or material subject to the Acts and the Regulations made in connection with all Federal-Aid Highway Program and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

*"The **Winchester-Frederick County Metropolitan Planning Organization** in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 US.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."*

3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations.
4. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.
7. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
 - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
 - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:
 - a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or

- b. the period during which the Recipient retains ownership or possession of the property.
- 9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.
- 10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, the **Winchester-Frederick County Metropolitan Planning Organization** also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the *FHWA* access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by *FHWA*. You must keep records, reports, and submit the material for review upon request to *FHWA*, or its designee in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

The **Winchester-Frederick County Metropolitan Planning Organization** gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation under the *Federal-Aid Highway Program*. This ASSURANCE is binding on the *Commonwealth of Virginia*, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors, transferees, successors in interest, and any other participants in the *Federal-Aid Highway Program*.

Winchester-Frederick County Metropolitan Planning Organization

by 

Brandon Davis, Executive Director

DATED: 10/10/2024

APPENDIX A
U.S. DOT 1050.2A -- Appendix A

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, the Federal Highway Administration, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Nondiscrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Federal Highway Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the Federal Highway Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.

6. Incorporation of Provisions: The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

APPENDIX B
CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:

NOW, THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the **Winchester-Frederick County Metropolitan Planning Organization** will accept title to the lands and maintain the project constructed thereon in accordance with the Virginia General Assembly, the Regulations for the Administration of the Federal-Aid Highway Program and the policies and procedures prescribed by the *Federal Highway Administration* of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the **Winchester-Frederick County Metropolitan Planning Organization** all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto the **Winchester-Frederick County Metropolitan Planning Organization** and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the **Winchester-Frederick County Metropolitan Planning Organization**, its successors and assigns.

The **Winchester-Frederick County Metropolitan Planning Organization** in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]* (2) that the **Winchester-Frederick County Metropolitan Planning Organization** will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended[, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

APPENDIX C
CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER
THE ACTIVITY, FACILITY, OR PROGRAM

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the **Winchester-Frederick County Metropolitan Planning Organization** pursuant to the provisions of Assurance 7(a):

- A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that:
 - 1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Nondiscrimination covenants, the **Winchester-Frederick County Metropolitan Planning Organization** will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.*
- C. With respect to a deed, in the event of breach of any of the above Nondiscrimination covenants, the **Winchester-Frederick County Metropolitan Planning Organization** will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the **Winchester-Frederick County Metropolitan Planning Organization** and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX D
CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER
THE ACTIVITY, FACILITY OR PROGRAM

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by the **Winchester-Frederick County Metropolitan Planning Organization** pursuant to the provisions of Assurance 7(b):

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.

- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Nondiscrimination covenants, the **Winchester-Frederick County Metropolitan Planning Organization** will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.*

- C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, the **Winchester-Frederick County Metropolitan Planning Organization** will there upon revert to and vest in and become the absolute property of the **Winchester-Frederick County Metropolitan Planning Organization** and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX E
U.S. DOT 1050.2A -- Appendix E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Nondiscrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21;
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 -- 12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*)

Title VI Complaint Form

WinFred MPO

Section I:				
Name:				
Address:				
Telephone (Home):			Telephone (Work):	
Electronic Mail Address:				
Accessible Format Requirements?	Large Print		Audio Tape	
	TDD		Other	
Section II:				
Are you filing this complaint on your own behalf?			Yes*	No
*If you answered "yes" to this question, go to Section III.				
If not, please supply the name and relationship of the person for whom you are complaining:				
Please explain why you have filed for a third party: _____				
Please confirm that you have obtained the permission of the aggrieved party if you are filing on behalf of a third party.			Yes	No
Section III:				
I believe the discrimination I experienced was based on (check all that apply):				
<input type="checkbox"/> Race <input type="checkbox"/> Color <input type="checkbox"/> National Origin				
Date of Alleged Discrimination (Month, Day, Year): _____				
Explain as clearly as possible what happened and why you believe you were discriminated against. Describe all persons who were involved. Include the name and contact information of the person(s) who discriminated against you (if known) as well as names and contact information of any witnesses. If more space is needed, please use the back of this form. _____ _____				
Section IV				
Have you previously filed a Title VI complaint with this agency?			Yes	No
Section V				
Have you filed this complaint with any other Federal, State, or local agency, or with any Federal or State court?				

<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, check all that apply: <input type="checkbox"/> Federal Agency: _____ <input type="checkbox"/> Federal Court _____ <input type="checkbox"/> State Agency _____ <input type="checkbox"/> State Court _____ <input type="checkbox"/> Local Agency _____
Please provide information about a contact person at the agency/court where the complaint was filed.
Name:
Title:
Agency:
Address:
Telephone:
Section VI
Name of agency complaint is against:
Contact person:
Title:
Telephone number:

You may attach any written materials or other information that you think is relevant to your complaint.

Signature and date required below.

Signature Date

Please submit this form in person at the address below, or mail this form to:

Brandon Davis, Executive Director, Northern Shenandoah Valley Regional Commission
 400 Kendrick Lane, Suite E, Front Royal, VA 22630

Formulario de Queja Título VI Discriminación

WinFred MPO

Sección I:				
Nombre:				
Dirección:				
Teléfono (Casa):			Teléfono (Trabajo):	
Dirección de correo electrónico:				
¿Requisitos formato accesible?	Letra Grande		Cinta de audio	
	TDD		Otro	
Sección II:				
¿Está presentando esta queja en su propio nombre?			Sí*	No
*Si su respuesta es "sí" a esta pregunta, vaya a la Sección III.				
Si no es así, sírvase proporcionar el nombre y la relación de la persona para quien se queja:				
Por favor, explique por qué usted ha presentado para un tercero: _____				
Por favor, confirma que ha obtenido el permiso de la parte perjudicada, si usted está presentando en nombre de un tercero.			Sí	No
Sección III:				
Creo que la discriminación que experimenté fue basado en (marque todo lo que corresponda): [] Raza [] Color [] Origen nacional Fecha de la Discriminación Presunta (mes, día, año): _____ Explique lo más claramente posible lo que pasó y por qué cree que fue discriminado. Describir todas las personas que estuvieron involucradas. Incluya el nombre y la información de contacto de la persona (s) que lo discriminó (si se conoce), así como los nombres y la información de los testigos en contacto. Si se necesita más espacio, por favor use la parte de atrás de este formulario. _____ _____				
Sección IV				
¿Ha presentado previamente una queja del Título VI con esta agencia?			Sí	No
Sección V				
¿Ha presentado esta queja con cualquier otro, estatal o agencia local Federal, o con cualquier corte federal o estatal?				

<input type="checkbox"/> Sí <input type="checkbox"/> No En caso afirmativo, marque todo lo que corresponda: <input type="checkbox"/> Agencia Federal _____ <input type="checkbox"/> Tribunal Federal _____ <input type="checkbox"/> Agencia Estatal _____ <input type="checkbox"/> Tribunal Estatal _____ <input type="checkbox"/> Agencia Local _____
Sírvanse proporcionar información sobre una persona de contacto en la agencia / tribunal donde se presentó la denuncia.
Nombre:
Título:
Agencia:
Dirección:
Teléfono:
Sección VI
Nombre de la agencia de queja es en contra:
Persona de contacto:
Título:
Número de teléfono:

Puede adjuntar cualquier material escrito o cualquier otra información que usted piensa que es relevante para su queja.

Firma y fecha requerida a continuación

FirmaFecha

Por favor, envíe este formulario en persona en la dirección indicada más abajo, o envíe este formulario a:

Brandon Davis, Director Ejecutivo, Northern Shenandoah Valley Comisión Regional
 400 Kendrick Lane, Suite E, Front Royal, VA 22630