

Metropolitan Planning Organization of the Regional Intergovernmental Council (RIC)

Title VI Plan

December 2022

RESOLUTION OF THE BCKP REGIONAL INTERGOVERNMENTAL COUNCIL POLICY BOARD TO ADOPT THE UPDATE TO THE TITLE VI PLAN

Whereas, The BCKP Regional Intergovernmental Council, as the federally

designated Metropolitan Planning Organization (MPO) for the

Charleston, WV urbanized area, developed an update to its Title VI Plan in accordance with the USDOT Infrastructure Investment and Jobs Act

(IIJA);

Whereas, The metropolitan planning organization of the BCKP Regional

Intergovernmental Council (RIC) is required to comply with Title VI of the

Civil Rights Act of 1964 and other applicable related legislation in accordance with the U.S. Department of Transportation Infrastructure

Investment and Jobs Act (IIJA);

Whereas, The Title VI Plan has an established formal update cycle of (4) years to

maintain compliance with state and federal requirements; and

Whereas, The Title VI Plan was properly advertised and made available for public

review as required, having a public comment period of at least (15)

calendar days.

Now, therefore, be it resolved, that the BCKP Regional Intergovernmental Council adopts the updated Title VI Plan for the metropolitan planning organization.

So, resolved this 8th day of December 2022.

David Casebolt, Chairman

BCKP Regional Intergovernmental Council

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50 Dee Drive

Charleston, West Virginia 25311

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1321 Plaza East

Room 108A

Charleston, West Virginia 25301-2616

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West Virginia Department of Transportation, Equal Employment Opportunity Division (EEO)

1900 Kanawha Boulevard East

Building 5, Room 430

Charleston, West Virginia 25305

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Introduction

In 1975, RIC was designated as the Metropolitan Planning Organization (MPO) for the Charleston Urbanized Area. Later, this was expanded to include the entire Metropolitan Area which comprises all of Kanawha and Putnam counties in West Virginia to match the air quality non-attainment area. All urbanized areas in the U.S., as a condition of receiving federal highway and transit funding, must have an official MPO, whose responsibility is to carry out a coordinated, cooperative, and comprehensive ("3-C") transportation planning process. This process includes the development of various transportation plans and programs in cooperation with federal, state, and local entities, transit agencies, and local citizens.

The RIC Title VI Plan was first approved by the RIC Policy Board in 2016. A formal four-year plan update was completed and approved in 2020. This plan update was developed in accordance with the federal requirements of the current transportation reauthorization bill, the Infrastructure Investment and Jobs Act (IIJA), Title VI of the Civil Rights Act of 1964, Executive Order 12898, commonly known as the Environmental Justice order and other federal requirements. It is important to note that this plan applies to the RIC transportation department.

The RIC Title VI Plan provides an overview of non-discrimination federal requirements and serves as a tool for the RIC to implement these non-discriminatory requirements in its programs, policies, and activities. The RIC Title VI Plan:

- i. Provides federal and state agencies with information on the manner by which the RIC undertakes its responsibilities in accordance with all applicable federal requirements under the Infrastructure Investment and Jobs Act (IIJA), Title VI of the Civil Rights Act of 1964, and other federal requirements;
- ii. serves as a guide for the RIC transportation staff concerning federal nondiscrimination requirements and procedures; and
- iii. provides information on non-discrimination implementation efforts the RIC undertakes in accordance with applicable requirements.

RIC Organization

The Regional Intergovernmental Council (RIC) is a sub-recipient of federal and state transportation funds. As such, any highway or transit project or program receiving federal funds must be approved by the RIC Policy Board. The RIC Policy Board is the decision-making body of the RIC. The membership of the RIC Policy Board is comprised of elected officials and citizen representatives from the four-county region of Boone, Clay, Kanawha, and Putnam counties. Additional members of the RIC Policy Board include representatives from the West Virginia Division of Highways (WVDOH), Kanawha Valley Regional Transportation Authority (KVRTA), minority organizations, and at-large citizen representatives. Minority and at-large citizen representatives of the RIC Policy Board are appointed in compliance with state and federal

requirements regarding member composition. Most of the annual funding the RIC receives as a metropolitan planning organization, are federal funds (80%) provided by the U.S. Department of Transportation (USDOT). In addition, local government entities within Boone, Clay, Kanawha, and Putnam counties pay an annual contribution to the RIC—local contributions account for 10% of the annual transportation planning budget. The West Virginia Department of Transportation (WVDOT) provides the matching 10% local funding amount.

RIC Non-Discrimination Policy Statement

The Regional Intergovernmental Council (RIC) does not discriminate on the basis of race, religion, sex, national origin, ethnicity, age, disability, political affiliation, color, marital status, sexual orientation, economic status, or any other characteristic protected by law. The Executive Director of the RIC is responsible for ensuring implementation of the RIC Title VI Plan. The RIC Title VI Coordinator is responsible for both coordinating the overall administration of the Title VI Plan and resolving any complaints.

The RIC engages the public, stakeholders, low-income, minority, and disadvantaged communities to maximize public participation in the metropolitan transportation planning process through public involvement strategies and policies. Public involvement efforts are described in the RIC Public Participation Plan, available on the RIC website (www.wvregion3.org).

The RIC complies with Title VI of the Civil Rights Act of 1964 and other federal requirements for its transportation activities and ensures hired consultants and sub-consultants comply with these requirements. Moreover, the RIC adheres to ensuring fair treatment for environmental justice populations and disadvantaged communities. In this regard, the RIC:

- Ensures meaningful involvement of environmental justice populations and disadvantaged communities in the metropolitan transportation planning process;
- ii. safeguards environmental justice populations and disadvantaged communities against disproportionately high and adverse human health and/or environmental impacts of transportation programs, policies, and activities; and
- iii. ensures environmental justice populations and disadvantaged communities receive equitable benefits from transportation plans, programs, policies, and activities.

Federal Requirements

The Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, or national origin. Title VI is one of eleven Titles of the Civil Rights Act of 1964 and applies to all programs and activities of federal-aid recipients, sub-recipients, and contractors. Title VI addresses discrimination in federally funded programs by mandating requirements and responsibilities for affected programs to prevent and prohibit discriminatory behavior against environmental

justice populations and disadvantaged communities. Title VI requirements apply to all metropolitan planning organizations receiving federal funds and therefore, prohibits discrimination in all federally funded programs, policies, and activities of the RIC.

Since the Civil Rights Act of 1964 was passed, applicability of the legislation has broadened to include protection against discrimination based on age, disability, sex, religion, limited English proficiency (LEP), and income level. This process of further inclusion was carried out through several federal statutes, regulations, policies, and executive orders.

The Civil Rights Restoration Act of 1987 asserts Title VI applies to all programs and activities of federal-aid recipients, sub-recipients, and contractors. Title VI addresses discrimination in federally funded programs to prevent discriminatory behavior and ensure federal funds are not used to adversely affect minority populations.

In 1994, former U.S. President Bill Clinton issued Executive Order 12898 – Federal Actions to Address Environmental Justice in Minority and Low-Income Populations. This requires federal agencies to address disproportionately high and adverse effects of its programs, policies, and activities on minority, low income, and other historically disadvantaged populations. Executive Order 12898 requires organizations to identify and assess any disproportionately high and adverse effects of programs, policies, or activities on minority and low-income population groups. Populations falling under the umbrella of Environmental Justice are specifically defined in the 1994 Executive Order as minority populations including black/African-American, Hispanic or Latino, Asian-American, American Indian and Alaskan Native, Native Hawaiian and other Pacific Islander, and any person whose median household income is at or below the poverty level.

Environmental Justice considers the distribution of costs and benefits from investment strategies and policies, and how this affects disadvantaged communities. To ensure compliance, the RIC:

- Ensures that transportation programs, policies, and activities comply with Title VI requirements;
- ii. identifies residential, employment, and transportation patterns of environmental justice populations and disadvantaged communities;
- iii. ensures benefits of transportation investments are equitably distributed; and
- iv. conducts a public participation process that engages environmental justice populations and disadvantaged communities.

On January 27, 2021, President Biden signed Executive Order (EO) 14008, *Tackling the Climate Crisis at Home and Abroad*, creating the government wide Justice40 Initiative. The Justice40 initiative aims to deliver 40 percent of the overall benefits of federal investments in climate and clean energy, including sustainable transportation, to disadvantaged communities.

Project Agreements for Professional Consulting Services

The RIC Policy Board considers the approval of project agreements between the RIC and private, non-state, non-federal entities for professional consulting services. The RIC evaluates and monitors these project agreements in order to guarantee that contractors adhere to Title VI and Environmental Justice mandates. All contracts include language that ensures compliance with state and federal nondiscrimination regulations. To protect against non-compliance, RIC:

- i. Requires all consultants to verify their compliance with all applicable federal requirements to ensure non-discrimination; and
- ii. resolves any deficiencies found with non-compliant consultants by establishing a deadline to resolve non-compliance.

The RIC encourages minority owned businesses to participate in any consultant selection process. Requests for qualifications (RFQs) are posted on the RIC website; RFQs are also advertised in the local newspaper and sent to known minority-owned firms.

Demographics for Kanawha and Putnam Counties

To comply with Title VI, Environmental Justice, and other federal requirements, the RIC remains current with its knowledge of disadvantaged communities within the MPO study area of Kanawha and Putnam counties. RIC uses American Community Survey (ACS) and Bureau of Labor Statistics (BLS) data to monitor and update demographic-related changes in the region. Demographic maps can be found in Appendix B of this plan.

Limited English Proficiency (LEP) Requirements

In 2000, Executive Order 13166 – Limited English Proficiency (LEP) was signed into law. As a result, federal agencies – and agencies receiving federal funding – are required to assess and address the needs of eligible persons with limited English proficiency. RIC is also required to consider LEP populations when creating transportation plans, programs, policies, and activities. A Limited English Proficiency (LEP) person is someone who does not speak or use English as their primary language. Additionally, people who are considered LEP may have limited ability to read, write, or understand English.

Language deficiencies can present a barrier to those hoping to access benefits and services. Also, LEP individuals may have difficulty understanding and exercising important rights, or understanding other information provided by federally funded programs and activities. These individuals may be entitled to language assistance at no cost to them with respect to a particular type of service, benefit or encounter. The RIC is required to provide reasonable

accommodations for language assistance to any LEP persons. This helps provide LEP persons access to the RIC programs, policies, and activities and encourages participation.

The United States Department of Transportation (USDOT) requires recipients of federal funding to provide "meaningful access to programs and activities" by providing LEP persons and disadvantaged communities adequate and understandable information which enables them to participate in programs and activities, where appropriate. The American Community Survey (ACS) publishes and provides statistics regarding persons of Limited English proficiency (LEP). The RIC relies on recommendations of interested parties and committee members to determine if any transportation documents need translation.

In addition, the RIC tracks changes in demographic data and statistics within the study area to ensure accurate identification of LEP populations. Maps of LEP populations in Kanawha County and Putnam County are located in Appendix B of this plan.

The following tables represent the LEP populations in Kanawha and Putnam counties according to the 5-Year 2020 American Community Survey (ACS) estimates:

Kanawha County	2020 Estimates			
Population 5 years and over	171,392			
Speak only English	97.7%			
Speak other language	2.3%			
Most Common Languages Spoken (non-English)				
Spanish or Spanish Creole	0.7%			
Other Indo-European languages	0.8%			
Asian and Pacific Island languages	0.5%			
Other languages	0.4%			

Putnam County				
Population 5 years and over	53,632			
Speak only English	98.3%			
Speak other language	1.7%			
Most Common Languages Spoken (non-English)				
Spanish or Spanish Creole	0.6%			
Other Indo-European languages	0.6%			
Asian and Pacific Island languages	0.5%			
Other languages	0.0%			

LEP individuals may come into contact with RIC activities, personnel, or materials in a variety of ways. These include public meetings, legal notices, local media outlets, the RIC website, and the RIC office. In the event of a request, RIC shall contract with an interpretation provider in order to translate the desired information.

There does not appear to be a demand for extensive LEP services at this time, although RIC staff shall continually monitor the demographic profile of Kanawha and Putnam counties to track any changes that would justify further assistance to LEP persons. In addition, RIC shall use feedback from staff, outside agencies, and LEP individuals to continue to reevaluate their LEP efforts.

Environmental Justice Populations

Environmental Justice ensures that federally-funded organizations do not negatively impact, either intentionally or through an unintended result of a plan or project, low-income and minority populations within a region. The three common principles to help maintain environmental justice are as follows:

- i. Avoid, minimize, or mitigate any disproportionately high and adverse effects on minority, low-income, and disadvantaged communities. These effects include health-related, environmental, social, and/or economic.
- ii. Ensure complete and fair transportation participation procedures for all potentially affected people and communities; and
- iii. keep all disadvantaged communities informed and engaged throughout the transportation planning process.

The RIC utilizes demographic data from the American Community Survey (ACS) and the Bureau of Labor Statistics (BLS) that delineate the locations of persons living below the poverty line and minority populations throughout Kanawha and Putnam counties. This data-driven effort enables the RIC transportation staff to identify locations of low-income and minority populations in both counties. This section of the Title VI plan provides demographic statistics for employment and unemployment, poverty, and minority populations in both Kanawha and Putnam counties. The maps within Appendix B display this data. These maps include poverty rates in Kanawha and Putnam counties by census tract and the percentage of people who describe themselves as any race or ethnicity other than non-Hispanic and white alone.

The RIC uses data from the BLS to track changes in employment within both the state of West Virginia and the Charleston metropolitan statistical area (MSA). There is no BLS data at the census tract level, but the employment numbers in the Charleston, WV MSA represent a good proxy of the RIC study area.

The following table displays employment statistics in both Charleston, WV and the state of West Virginia:

Charleston, WV Metropolitan Statistical Area (MSA) – 2022 BLS Data

	January	February	March	April	May (P)	June
Civilian Labor Force (1)	91.2	91.6	91.1	91.8	92.1	х
Employment (1)	87.1	87.4	87.4	88.4	88.9	х
Unemployment (1)	4.1	4.2	3.7	3.4	3.2	х
Unemployment Rate (2)	4.5	4.6	4.1	3.7	3.5	х

West Virginia – 2022 BLS Data

	January	February	March	April	May	June (P)
Civilian Labor Force (1)	793.3	793.8	794.2	794.6	795.8	797.0
Employment (1)	761.1	763.0	765.2	766.2	767.9	768.4
Unemployment (1)	32.2	30.8	29.0	28.4	27.9	28.7
Unemployment Rate (2)	4.1	3.9	3.7	3.6	3.5	3.6

(1) – Number of persons, in thousands

(2) - Number or people, percent

(P) - Preliminary estimate

In addition to employment and unemployment figures, the RIC also maintains data on people living with incomes below the poverty level, and the following table conveys the poverty levels in the region:

	Total Persons	Percent of Persons Living Below Federal Poverty Level
Kanawha	177,952	15.7%
Putnam	57,260	9.9%

Source: United States Census Bureau, 2021

The poverty rate is higher within Kanawha County than it is in Putnam County. As the map shows in Appendix B, the highest concentrations of persons living with incomes below the poverty level in Kanawha County are located in the densely populated urban areas of the City of Charleston and the west side of the City of Dunbar. Putnam County's poverty rates are more evenly distributed than Kanawha County, but with high percentages and number of people living with incomes below the poverty level in Census Tracts 205 and 204, represented by the Town of Poca, the Town of Winfield, and the surrounding areas. There is also a higher concentration of persons living with incomes below the poverty level per square mile in the Teays Valley area, represented by Census Tract 206.01—still at a significantly lower percentage than the previously mentioned census tract

Public Participation

The RIC facilitates and encourages public involvement through meaningful engagement practices. The RIC provides equitable opportunity for the public to participate in the development of transportation plans, programs, policies, and activities. Some of the tools RIC uses to keep the public informed include the RIC website, press releases, public meetings, opportunities for public comment and other public involvement methods.

RIC conducts public meetings throughout the process of developing transportation plans or studies, as appropriate. The RIC then analyzes the attendance and participation from disadvantaged communities to the greatest extent practicable.

Initiating and Maintaining the Title VI Plan

The RIC transportation staff shall assist the RIC Title VI Coordinator in evaluating and monitoring compliance for all aspects of the Title VI Plan. The RIC Title VI Coordinator will meet with appropriate staff members to monitor and discuss progress, implementation, and compliance. An annual review of the RIC Title VI Plan is necessary to determine whether administrative procedures are effective and adequate resources are available to ensure compliance. If a hired consultant or sub-consultant is found to be non-compliant with this plan, the RIC Title VI Coordinator will coordinate with the non-complying entity for resolution and initiate remedial action(s) if necessary. This may include notifying the consultant and/or sub-consultant in writing outlining the corrective actions to rectify non-compliance, in addition to setting a deadline to resolve non-compliance.

For LEP accommodations, a list of interpretation providers shall be maintained and made available in the event of any translation requests. The RIC website (www.wvregion3.org) is provides translation features to increase accessibility for LEP populations. Accommodations for planning documents that are not compatible with the RIC website's translation features can be made by contacting the RIC office at (304)-744-4258 or by email at mail@wvregion3.org The RIC Title VI Coordinator is also responsible for maintaining demographic data for all LEP populations, minority groups, low-income populations, and disadvantaged communities within the region to the best of their ability.

The RIC transportation staff maintain a comprehensive understanding of the RIC Title VI Plan and its implications. To ensure continuity of this effort, the plan is distributed and reviewed by all RIC transportation staff and is disseminated to hired consultants and subconsultants. The RIC Title VI Plan has a formal update cycle of four years. The RIC Title VI Coordinator will engage with federal, state, and local entities regarding opportunities for education and training on non-discriminatory practices, policies, and procedures.

Title VI Discrimination Complaint Procedures

These procedures apply to all complaints filed under Title VI of the Civil Rights Act of 1964, relating to any program or activity administered by the Regional Intergovernmental Council or its consultants and/or contractors. Title VI procedures do not deny the right of the complainant to file a formal complaint with other State or Federal agencies, or to seek private counsel for complaints alleging discrimination. RIC's Title VI complaint procedures are part of an administrative process that does not provide remedies that include punitive damages or compensatory remuneration for the complainant. Every effort will be made by the Title VI Program Coordinator to obtain early resolution of complaints at the lowest level possible.

Claims against RIC may be proven by two primary theories: intentional discrimination or disparate treatment, and disparate impacts and effects from programs, policies, and/or activities. If an individual or group of individuals believes that they have been subjected to Title VI discrimination resulting from any activity, recommendations, or publication of the RIC transportation staff or its contractors, then the complainants may file a Title VI complaint form with the Title VI Coordinator. Contact information for the RIC Title VI Coordinator is listed in Appendix A. The RIC Title VI Discrimination Complaint Form must be filed within (180) calendar days of the alleged date of discrimination or when the alleged discrimination becomes known to the complainant. The complaint should include the following items:

- 1. The date when the complainant became aware of the act of discrimination, the date on which the conduct was discontinued or the latest instance of the conduct.
- Present a detailed description of the issues, including the names and job titles of those individuals perceived as the parties involved in contributing to the act of discrimination.
- 3. The allegation must involve a discriminatory act based upon the complainant's protected status such as race, color, national origin, disability, sex or age.

Complaints may be filed with the Executive Director of the Regional Intergovernmental Council and/or the West Virginia Department of Transportation (WVDOT), West Virginia Human Rights Commission (WVHRC), or the nearest Equal Employment Opportunity Commission (EEOC) office. For complaints filed locally, the Executive Director of RIC, the RIC Transportation Planning Manager, and the RIC Title VI Coordinator will review the content of the complaint to determine if it contains sufficient information to ensure any additional information is obtained, if needed. Upon receiving a complaint, the WVDOT Title VI Coordinator will determine the jurisdiction for the complaint as well as whether there is a need for additional information. If more information is required, the complainant will be notified within (10) business days. The complainant will have (15) business days from the date of the letter requesting additional information to provide the requested information.

If the complaint is determined to be valid, copies of the complaint will be sent within (10) business days to the WVDOT, FHWA, and KVRTA. The complainant will be notified in writing that the complaint is being processed. This notification will include copies of the correspondence being sent to WVDOT, FHWA, and KVRTA. RIC will conduct and complete a full investigation within (60) days of receiving the complaint. The RIC Title VI Coordinator will provide a recommendation for action to the Executive Director of the RIC. Within (90) days of receiving the complaint, the RIC Title VI Coordinator will notify the complainant of the decision. The complainant will be notified in writing. In addition to the decision, this written notification will provide the complainant with instructions for any appeal procedures to either WVDOT or FHWA.

In the case of a complaint that alleges RIC to have been discriminatory, the WVDOH Office of Equal Opportunity will handle the investigation. The RIC Title VI Coordinator will be involved as well, serving as a conduit between the Office of Equal Opportunity and the complainant for updates on the complaint. If the complaint is determined to be invalid, or contains insufficient information, the complaint will be considered incomplete, and the complainant will be notified in writing. Complaints may be rejected for any of the following reasons:

- 1. The complaint is not applicable to the RIC policies, planning processes, or work products.
- 2. The complaint is not filed within the established time frame.
- 3. The complaint does not allege a basis for discrimination based on a protected class.
- 4. The complaint does not allege any harm with regard to programs or statutes.
- 5. The complainant requests withdrawal.
- 6. The complainant fails to respond to requests for information needed.
- 7. The complainant cannot be located.
- 8. The complainant failed to accept a reasonable resolution.
- 9. The complainant files legal action.

The RIC Policy Board shall be informed of the complaint at the next regularly scheduled policy board meeting after the complaint is received. The RIC transportation staff will provide assistance to the appropriate investigating agency. Every attempt will be made to resolve the complaint at the state level; if a satisfactory resolution cannot be obtained, an additional government agency will be contacted. Within five (5) business days of receiving a response from the appropriate investigating agency, the complainant will be notified in writing regarding the resolution of the complaint. The RIC Policy Board shall be advised of a resolution to a complaint at the next regularly scheduled policy board meeting once an investigatory response from the appropriate agency is received. The RIC Title VI Discrimination Complaint Form can be found in Appendix A of this plan. A completed complaint form must contain the requested information to the best of the complainant's knowledge and ability.

<u>Appendix A</u>: Regional Intergovernmental Council (RIC) Title VI Discrimination Complaint Form

Instructions: If you wish to submit a Title VI Discrimination Complaint Form, please fill out the form with all information requested and submit to the appropriate contact. The form is on the following two pages. For more information regarding the RIC complaint process or for filing complaints, please contact the Title VI Coordinator, Sam Richardson, at 304-744-4258.

Completed complaint forms can be mailed to the following physical mailing address:

Attention:
Sam Richardson
Regional Intergovernmental Council
315 D Street
South Charleston WV 25303

Completed and signed Title VI Discrimination Complaint Forms may be emailed to: srichardson@wvregion3.org

The RIC Title VI Discrimination Complaint Form can be found on the following two pages of this plan (pgs. 15-16).

Regional Intergovernmental Council (RIC) Title VI Discrimination Complaint Form

Name (Complainant, First and Last):	Phone Number:	Home address (Street, City, State, Zip Code):				
Name of person being allege applicable):	ed of discrimination (if	Email address:				
Physical address or known lo responsible for alleged discr		Date of alleged incident:				
Physical location of alleged incident (if applicable):						
involving action(s) of discrim	ination or discriminatory beh	elevant details and information avior. Please indicate all persons space or attach any additional pages of				

Regional Intergovernmental Council (RIC) Title VI Discrimination Complaint Form (continued)

What is the reason(s) you believe this/these event(s) occurred?	
What other information is relevant for the investigation of this com	plaint?
How do you feel this situation should be resolved?	
Use this space to list any person(s) you allow the RIC to contact for a support the allegation(s) in the complaint, if applicable. (Name, Address, Phone Number, Email):	additional information to
Signature:	Date:

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Appendix B: Demographic Maps

Households of Limited English Proficiency by Census Tract Metropolitan Planning Organization (MPO) Study Area.....18 Kanawha County......19 Putnam County......21 **Minority Populations by Census Tract** Metropolitan Planning Organization (MPO) Study Area......22 Kanawha County......23 Charleston Metro Area......24 **Populations Living Below Poverty Level by Census Tract** Metropolitan Planning Organization (MPO) Study Area......26 Kanawha County......27

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