

WASHINGTON METRORAIL SAFETY COMMISSION
777 North Capitol Street, N.E.
Washington, D.C. 20002

RESOLUTION APPROVING THE ADOPTION OF A TITLE VI PLAN

WHEREAS, the WMSC will be a recipient of federal grant funds provided by the Federal Transit Administration;

WHEREAS, recipients of federal grant funds are required to manage their programs in accordance with applicable law and federal rules;

WHEREAS, Title VI of Civil Rights Act of 1964, Title 42 United States Code § 2000d et seq., provides that no person shall, on the grounds of race, color, or national origin, be excluded from participating in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal grant funds;

WHEREAS, the FTA requires that all recipients document their Title VI compliance by preparing and submitting a Title VI Plan for approval by the FTA every three years;

WHEREAS, WMSC staff have consulted applicable regulations and guidance materials and drafted a Title VI Plan for submission to the FTA;

WHEREAS, the FTA requires that a Title VI Plan be approved by the recipient's board of directors or similar governing entity before it may be submitted to the FTA for review and approval;

NOW, THEREFORE, BE IT RESOLVED THAT THE WASHINGTON METRORAIL SAFETY COMMISSION:

Approves the attached WMSC Title VI Plan.

Adopted by the Metrorail Safety Commission at its meeting on May 14, 2019.



www.wmsc.gov

Title VI Plan



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Introduction

The Washington Metrorail Safety Commission (WMSC) is the designated State Safety Oversight Agency (SSOA) for the Washington Metropolitan Area Transit Authority

(WMATA) Metrorail system. As such, the WMSC is legally and financially independent of WMATA.

The WMSC serves as the safety regulatory authority for the WMATA Metrorail system, and the WMSC works in cooperation with the Federal Transit Administration (FTA) and WMATA to enhance public safety. The WMSC's State Safety Oversight (SSO) program was certified by the Federal Transit Administration in accordance with the requirements of Title 49 U.S.C. § 5329(e), and the FTA's SSO regulation, 49 C.F.R. Part 674, on March 18, 2019. The WMSC's rail transit experts implement the WMSC's program and focus on verification of compliance with WMATA's safety plans to ensure that WMATA provides a safe environment and transportation service.

The WMSC oversees the safety of WMATA Metrorail through six core functions: its triennial audit program, onsite inspections, safety event investigations, emergency management activities, safety certification, and oversight of WMATA's corrective active plans (CAPs).

The WMSC will receive its only anticipated federal funding from the U.S. Department of Transportation's (DOT) Federal Transit Administration (FTA) as a recipient pursuant to Title 49 U.S.C. § 5329.

The WMSC does not provide any services or benefits directly to members of the public, and the activities of the WMSC do not confer any obligations or requirements on members of the general public. That said, the WMSC is required to comply with the Freedom of Information Act (5 U.S.C. § 552(a)–(d)) and the Government in the Sunshine Act (5 U.S.C. § 552b).

The WMSC is comprised of Commissioners and Alternates appointed by the District of Columbia, the State of Maryland, and the Commonwealth of Virginia. Each jurisdiction is permitted to appoint two Commissioners and one Alternate, none of whom is a salaried employee of the WMSC. The day-to-day work of the



Metrorail Safety Commission is undertaken by a full-time staff of about 11 individuals.

The legal authority for the WMSC is derived from an Interstate Compact, which was authorized by identical legislation enacted by each of the jurisdictions served by Metrorail: D.C. Act 21-666, which became law on February 10, 2017; Maryland H.B. 119, which became law on March 30, 2017; and Virginia H.B. 2136, which became law on March 24, 2017. The U.S. Congress granted its consent and approval of the WMSC Compact via H.J.Res.76, which became P.L. 115-54 on August 22, 2017. This legislation is collectively referred to as the "WMSC Compact."

Assurances

The WMSC carries out its program in compliance with the law and regulations pertaining to nondiscrimination, and specifically with regard to Title VI and the DOT's Title VI regulations. On an annual basis, the WMSC submits its certifications and assurances in relation to such compliance to the FTA, as required by Title 49 CFR 21.7(a).

Title VI Compliance History

As of the initial date of this plan, the WMSC has never been a recipient of Federal funds. The WMSC Compact created the WMSC on August 22, 2017, and the WMSC's first paid staff members reported for duty in the summer of 2018. Accordingly, based on the application of Title VI implementation regulations and guidance, the WMSC is not required to submit a Title VI compliance history nor does it have such a history.

Pending Applications for Assistance to Other Federal Agencies

No such applications are pending, nor are any contemplated.

Title VI Notice

The WMSC Title VI notice appears prominently on its public website. Additionally, a framed copy of the notice has been placed in the reception area of the WMSC's office space, and a copy is posted on the employee bulletin board. Finally, a poster-size copy of the notice is prominently displayed to the audience at all public meetings of the WMSC Commissioners. The text of the notice reads as follows:

"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. Other laws have expanded non-discrimination requirements to include sex, age, and disability. The Washington Metrorail Safety Commission (WMSC) is fully committed to the requirements of Title VI and other laws that prohibit discrimination. The WMSC conducts all of its operations and activities without regard to race, color, national origin, sex, age, and disability.

"More information about the WMSC's Title VI obligations can be found on our website (www.wmsc.gov) or by calling 202-384-1520.

"Persons who believe that they have been aggrieved by an unlawful discriminatory practice by the WMSC under Title VI may submit a complaint to the WMSC. The complaint must be in writing and submitted within one hundred and eighty (180) days following the date of the alleged occurrence.

"To file a complaint, please print the form found on our website and mail the completed



form to: Title VI Manager, Washington Metrorail Safety Commission, 777 North Capitol St, N.E., Suite 402, Washington, DC 20002.

"Complaints may also be submitted to the U.S. Department of Transportation, Federal Transit Administration, Office of Civil Rights, Attention: Complaint Team, East Building 5th Floor – TCR, 1200 New Jersey Avenue, S.E., Washington, DC 20590."

Title VI Complaint Procedures

Persons who believe that they have been aggrieved by an unlawful discriminatory WMSC practice under Title VI may submit a complaint to the WMSC by following the simple instructions on our website. The instructions explain that the complaint must be in writing and submitted within one hundred and eighty (180) days following the date of the alleged occurrence.

A complaint form is available for printing on the WMSC's public website, and the form also appears in Appendix A of this document. The instructions on the website and the form itself indicate that filing a complaint requires printing the form and mailing the completed and signed form to: Title VI Manager, Washington Metrorail Safety Commission, 777 North Capitol St, N.E., Suite 402, Washington, DC 20002.

The instructions further note that complaints may also be submitted to the U.S. Department of Transportation, Federal Transit Administration, Office of Civil Rights, Attention: Complaint Team, East Building 5th Floor – TCR, 1200 New Jersey Avenue, S.E., Washington, DC 20590.

The WMSC will acknowledge receipt of the complaint within 5 business days. Upon receipt of the complaint, WMSC staff will refer the matter to the General Counsel who will determine its jurisdiction, acceptability, and need for additional information, as well as investigate the merit of the complaint.

Every effort will be made to obtain early resolution of complaints through informal means rather than formal proceedings. However, the option of informal mediation meeting(s) between the affected parties and WMSC staff may be utilized for resolution at any stage of the process. WMSC staff will make every effort to pursue a resolution to the complaint. Initial interviews with the complainant and the respondent will request information regarding specifically requested relief and settlement opportunities.

A complaint may be dismissed for the following reasons: The complainant requests the withdrawal of the complaint; the complainant repeatedly fails to respond to requests for additional information needed to process the complaint; or, the complainant cannot be located after reasonable effort.

Once the WMSC decides to accept the complaint for investigation, the complainant and the respondent will be notified in writing of such determination within five calendar days. The complaint will receive a case number and will then be logged in the records of the WMSC, identifying its basis and alleged harm, and the race, color, national origin, and gender of the complainant.

The WMSC will provide the respondent with the opportunity to respond to the allegations in writing. The respondent will have 10 calendar days from the date of the WMSC's written notification of acceptance of the complaint to furnish his or her response to the allegations.

Within 40 calendar days of the acceptance of the complaint, the General Counsel will prepare an investigative report for review by the CEO. The report will include a narrative description of the incident, identification of persons interviewed, findings, and recommendations for disposition.

The General Counsel will discuss the report and recommendations with the CEO within 10 calendar days of the date that the CEO receives



the report, and the report will be finalized for release.

List of Public Transportation-Related Title VI Investigations, Complaints, or Lawsuits Filed

There have been no such investigations, complaints, or lawsuits filed.

Public Participation Plan

The business of the WMSC is transacted at regularly-scheduled public meetings. Each public meeting is noticed to the public on the WMSC's public website. These notices are posted no less than one week before each meeting, and they contain the date, time, location, and agenda for the meeting. The WMSC has procedures to invite members of the general public to make comments, within certain limitations, during a portion of each of its public meetings.

Limited English Proficiency Plan

It is important to provide meaningful access to persons with Limited English Proficiency (LEP persons), and it is also important to avoid imposing an undue burden on a very small organization such as the WMSC. To balance meaningful access for LEP persons with the resources available to the WMSC, the organization conducted a four-factor analysis, which is summarized below.

(1) The number or proportion of LEP persons eligible to be served or likely to be encountered by a program, activity, or service of the recipient or grantee:

The WMSC is not a service provider, so no LEP persons are eligible to be "served" by the

WMSC. That said, the WMSC serves as the SSOA for the Metrorail system, which provides service to the National Capital Region.

In the National Capital Region, about 30% of the population speaks a language other than English at home, and 11% of the population speaks English less than "very well." The languages other than English most often spoken at home are Spanish, Other Indo-European languages, Other and unspecified languages, Chinese and other Asian and Pacific Island languages. Consequently, Spanish is by far the most prevalent language other than English spoken at home; however, non-English speaking groups are numerous and dispersed throughout the region.¹

As noted above, although the WMSC is not a service provider, there are a number of LEP persons in the region. Although it is not expected to be a large number, some LEP persons may be interested in the public meetings or publications of the WMSC. Per the information above, such persons are likely to be Spanish speakers, but they may also be speakers of a variety of other languages.

(2) The frequency with which LEP individuals come in contact with the program:

Although, the work of the WMSC to promote and assure the safety of the WMATA Metrorail system is important, few LEP persons in the National Capital Region are likely come in contact with the WMSC or its activities. This is because the WMSC does not provide any services or benefits directly to members of the public, and the activities of the WMSC do not confer any obligations or requirements on members of the general public. That said, some LEP persons may be interested in attending public meetings of the

¹ Language information cited in this paragraph comes from data summarized by the Metropolitan Washington Council of

Governments (MWCOC) in its March 2018 Language Assistance Plan (LAP).



WMSC and/or reading some of the publications of the WMSC.

(3) The nature and importance of the program, activity, or service provided by the recipient to people's lives:

Although the work of the WMSC to continually improve the safety of the Metrorail system is of benefit to the National Capital Region as a whole, the WMSC does not provide services to individuals or families. The program consists of technical inspections and audits of the Metrorail system's infrastructure and operations, and periodic reports regarding its safety. Metrorail customers and other members of the general public derive no direct benefit or assistance from any interaction they may have with the WMSC, nor is there any requirement for them to have any such interaction.

In sum, the program of the WMSC benefits the region, but it does not provide services directly to the public. Consequently, for purposes of this question and the program's importance relative to other programs, the WMSC is a program of low importance to people's daily lives.

(4) The resources available to the recipient and costs:

The WMSC is one of 31 SSOAs in the U.S., all of which provide state safety oversight of the rail transit systems in their jurisdictions. The FTA makes formula funds available specifically for this purpose under 49 U.S.C. § 5329.

Unlike all of its 30 sister SSOA organizations, the WMSC is the only one that is not housed within a larger "umbrella" organization such as a state DOT or a public utilities commission. As such, the WMSC does not have access to administrative programs and services (e.g., procurement teams, civil rights specialists, or administrative support) provided by such an umbrella organization. Further, these large agencies that "house" SSOAs may receive funds from several federal assistance programs and

other sources; however, the § 5329 program is the only federal assistance available to the WMSC.

The WMSC is a very small (about 11 person) organization created specifically to provide technical safety oversight for the Metrorail system. One of the WMSC's full-time employees serves as its office manager, and the remaining staff members are technical experts in various aspects of rail transit safety. When administrative programs and services such as those described in the above paragraph are required, the WMSC must rely on support contractors. Unlike our sister SSOAs housed in larger organizations, when the WMSC needs these services, they deplete § 5329 funds, because there is no umbrella organization to provide such services. Consequentially, the WMSC has limited resources available to it and is resource-challenged relative to its sister agencies.

Given the above four-factor analysis, the WMSC has determined that there are limited resources available for serving LEP persons who may be interested in the work of the WMSC, and that the number of such interested persons is expected to be low. Nonetheless, the WMSC believes that it can support the needs of LEP persons through a mix of free services (such as Google Translate) and paid services (such as language interpretation and document translation). Consequently, the Commissioners have adopted an Accessibility Policy designed to ensure that LEP persons have meaningful access to the WMSC's public meetings and publications upon request. The WMSC's Accessibility Policy appears in Appendix B.

As a new organization and a first-time applicant for federal funds, the WMSC does yet not have any experience with the extent to which LEP persons will be interested in attending its public meetings or reading its publications. Future activities to ensuring meaningful access by LEP persons will be informed and guided by actual experience.



Minority Participation Plan

The WMSC does not play a role in selecting its Commissioners, and is therefore not required to have a plan for encouraging minorities to serve as Commissioners.

Subrecipient Compliance Plan

The WMSC will not have subrecipients, and is therefore not required to have a subrecipient compliance plan.

Equity Analysis for the Location of Facilities

The WMSC has not constructed any qualifying facilities, nor does it contemplate ever doing so. Therefore, the WMSC is not required to conduct an equity analysis.

Contract Provisions

All contracts awarded by the WMSC will contain language related to Title VI compliance on the part of third-party contractors performing work for the WMSC to assure their compliance with this plan and with all provisions prohibiting discrimination on the basis of race, color, or national origin of Title VI of the Civil Rights Act of 1964, as amended, Title 42 U.S.C. §§ 2000d et seq., and with U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act," Title 49 CFR Part 21.

Additional Information and Investigations

The WMSC recognizes the authority of the FTA to request information beyond what is required by its Circulars for the FTA to investigate complaints of discrimination or to resolve concerns about possible noncompliance with

Title VI regulations. The WMSC will respond promptly to all such requests.

Title VI Plan Adoption by the WMSC Commissioners

The WMSC Commissioners function as the governing body of the WMSC. In that capacity, the Commissioners adopted this Title VI Plan by adoption of Resolution R-2019-06 at their public meeting held on DATE. The adopted resolution appears as Appendix C.



Appendix A: Title VI Complaint Form



Please mail your completed and signed form to: Title VI Officer, Washington Metrorail Safety Commission, 777 North Capitol Street, N.E., Suite 402, Washington, DC 20002. Note that a complaint must be submitted in writing within 180 calendar days from the date of the alleged occurrence.

Section I

Name: _____

Address : _____

Telephone Numbers:

(Home) _____ (Work) _____ (Mobile) _____

Electronic Mail Address: _____

Accessible Format Requirements?

☐ Large Print ☐ Audio recording ☐ 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 filing

Please explain why you have filed for a third party.

If you are filing on behalf of a third party, have you have obtained the permission of that party to file this complaint? ☐ Yes ☐ No

Continued next page...



Section III

Have you filed this complaint with any other federal, state, or local agency, or with any federal or state court? ☐ Yes ☐ No

If Yes, please list:

Federal agency: _____

State Agency: _____

Local Agency: _____

State Court: _____

Federal Court: _____

Have you filed a lawsuit regarding this complaint? ☐ Yes ☐ No

If you answered "yes" to either of the two previous questions, please provide a copy of the complaint form and/or lawsuit. Note: If litigation is pending regarding the same issue or issues, the WMSC defers to the decision of the court and will not take action.

Name of office or official you believe discriminated against you:

Office name: _____

Individual (if applicable): _____

Address: _____

City: _____ State: _____ Zip code: _____

Telephone: _____

Basis for complaint, check all that apply: ☐ Race ☐ Color ☐ National Origin

On separate sheets, please describe your complaint. You should include specific details such as names, dates, times, witnesses, and any other information that would assist us in our investigation. Please also provide any other written materials or other information that may be relevant to your complaint. Note: We cannot accept your complaint without a signature.

Please sign here: _____ Date: _____



Appendix B: Accessibility Policy



Policy

It is the policy of the Washington Metrorail Safety Commission (WMSC) to provide access for individuals with disabilities and those with limited English skills to our meetings and publications. The WMSC will provide reasonable accommodations upon request and with reasonable advance notice. These accommodations may include translation services, modifications, or adjustments to a publication or activity to enable an individual with a disability or someone who does not speak English to participate. Examples include:

- Providing sign language interpreters or other language interpretation services. The WMSC will make reasonable efforts to accommodate requests for such services.
- Providing meeting materials in alternative formats (such as translated materials in languages other than English, large print or electronic copies);
- Providing tables that are suitable for people using electric wheelchairs; or.
- Alerting security staff that persons with disabilities will need assistance to the meeting room;

Meetings

Translation services in sign language and languages other than English are available upon request with reasonable advance notice for meetings that are open to the public. Other accommodations, such as special seating requirements, can also be arranged. Please allow up to seven business days to process such a request. The WMSC will make reasonable efforts to accommodate requests. This assumes that the WMSC is given adequate time to secure those services and that services in a particular language are available within the requested time period.

Publications

All WMSC publications are made available on the WMSC's public website. Alternative formats of publications, including translated documents, can be made available upon request.



Appendix C: Resolution Adopting Title VI Plan



WMSC R-2019-06
May 14, 2019

WASHINGTON METRORAIL SAFETY COMMISSION
777 North Capitol Street, N.E.
Washington, D.C. 20002

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