

# SECTION 2

## **Governing Documents**

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**DURHAM-CHAPEL HILL-CARRBORO  
METROPOLITAN PLANNING ORGANIZATION**

**MEMORANDUM OF UNDERSTANDING  
FOR  
COOPERATIVE, COMPREHENSIVE, AND CONTINUING  
TRANSPORTATION PLANNING**

Between

THE GOVERNOR OF THE STATE OF NORTH CAROLINA,  
CITY OF DURHAM, TOWN OF CHAPEL HILL, TOWN OF CARRBORO  
TOWN OF HILLSBOROUGH, COUNTY OF DURHAM,  
COUNTY OF ORANGE, COUNTY OF CHATHAM, TRIANGLE TRANSIT, AND  
THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

in cooperation with

THE UNITED STATES DEPARTMENT OF TRANSPORTATION

March 12, 2014

WITNESSETH THAT

WHEREAS, Section 134(a) of Title 23 United States Codes states:

Policy – It is in the national interest—

- (1) to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and between States and urbanized areas, while minimizing transportation-related fuel consumption and air pollution through metropolitan and statewide transportation planning processes identified in this chapter; and
- (2) to encourage the continued improvement and evolution of the metropolitan and statewide transportation planning processes by metropolitan planning organizations, State departments of transportation, and public transit operators as guided by the planning factors identified in subsection (h) and section 135(d).

WHEREAS, Section 134(c) of Title 23 United States Codes states:

General Requirements.—

- (1) Development of long-range plans and Transportation Improvement Programs (TIPs).— To accomplish the objectives in subsection (a), metropolitan planning organizations designated under subsection (d), in cooperation with the State and

public transportation operators, shall develop long-range transportation plans and transportation improvement programs through a performance-driven, outcome-based approach to planning for metropolitan areas of the State.

(2) Contents.— The plans and TIPs for each metropolitan area shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the metropolitan planning area and as an integral part of an intermodal transportation system for the State and the United States.

(3) Process of development.— The process for developing the plans and TIPs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

WHEREAS, Chapter 136, Section 66.2(a) of the General Statutes of North Carolina states:

Each Metropolitan Planning Organization (MPO), with cooperation of the Department of Transportation, shall develop a comprehensive transportation plan in accordance with 23 U.S.C. Section 134. In addition, an MPO may include projects in its transportation plan that are not included in a financially constrained plan or are anticipated to be needed beyond the horizon year as required by 23 U.S.C. Section 134. For municipalities located within an MPO, the development of a comprehensive transportation plan will take place through the metropolitan planning organization. For purposes of transportation planning and programming, the MPO shall represent the municipality's interests to the Department of Transportation.

WHEREAS, Chapter 136, Section 66.2(b) of the General Statutes of North Carolina states:

After completion and analysis of the plan, the plan shall be adopted by both the governing body of the municipality or MPO and the Department of Transportation as the basis for future transportation improvements in and around the municipality or within the MPO. The governing body of the municipality and the Department of Transportation shall reach agreement as to which of the existing and proposed streets and highways included in the adopted plan will be a part of the State highway system and which streets will be a part of the municipal street system. As used in this Article, the State highway system shall mean both the primary highway system of the State and the secondary road system of the State within municipalities.

WHEREAS, Chapter 136, Section 66.2(d) of the General Statutes of North Carolina states:

For MPOs, either the MPO or the Department of Transportation may propose changes in the plan at any time by giving notice to the other party, but no change shall be effective until it is adopted by both the Department of Transportation and the MPO.

WHEREAS, a transportation planning process includes the operational procedures and working arrangements by which short and long-range transportation plans are soundly conceived and developed and continuously evaluated in a manner that will:

1. Assist governing bodies and official agencies in determining courses of action and in formulating attainable capital improvement programs in anticipation of community needs; and,
2. Guide private individuals and groups in planning their decisions which can be important factors in the pattern of future development and redevelopment of the area;

WHEREAS, it is the desire of these agencies that a continuing, cooperative, and comprehensive transportation planning process, be established for the Durham-Chapel Hill-Carrboro Metropolitan Planning Area in compliance with Title 23 U.S.C. Section 134 and any subsequent amendments to that statute, and any implementing regulations; Title 49 U.S.C. Chapter 53 and any subsequent amendments to these statutes, and any implementing regulations; and the Clean Air Act of 1970, as amended, [42 U.S.C. 7504 and 7506(c)].

WHEREAS, it is the desire of these parties that all prior Memoranda of Understanding between the parties be superseded and replaced by this Memorandum of Understanding.

NOW THEREFORE, the following Memorandum of Understanding is made:

### Section I

It is hereby agreed that the City of Durham, Town of Chapel Hill, Town of Carrboro, Town of Hillsborough, County of Durham, County of Orange, County of Chatham, Research Triangle Regional Public Transportation Authority (d/b/a Triangle Transit), and the North Carolina Department of Transportation in cooperation with the United States Department of Transportation will participate in a continuing, cooperative, and comprehensive transportation planning process with responsibilities and undertakings as related in the following paragraphs:

1. The Durham-Chapel Hill-Carrboro Metropolitan Planning Area, will consist of the Durham Urbanized Area as defined by the United States Department of Commerce, Bureau of the Census, plus that area beyond the existing urbanized area boundary that is expected to become urbanized or be affected by urban policies within a twenty-year planning period. This area is hereinafter referred to as the Metropolitan Planning Area.
2. The Durham-Chapel Hill-Carrboro Metropolitan Planning Organization (DCHC MPO) shall include the policy boards of general purpose local government – the Durham City Council, Chapel Hill Town Council, Carrboro Board of Aldermen, Hillsborough Board of Commissioners, Durham County Board of Commissioners, Orange County Board of Commissioners, and Chatham County Board of Commissioners; the North Carolina Department of Transportation; a MPO Board hereinafter defined, a MPO Technical

Committee hereinafter defined, and the various agencies and units of local, regional, state, and federal government participating in the transportation planning for the area.

3. The Metropolitan Planning Area boundary will be periodically reviewed and revised in light of new developments, basic data projections for the current planning period, and as may otherwise be required by federal and state laws.
4. The continuing transportation planning process will be a cooperative one reflective of and responsive to the programs of the North Carolina Department of Transportation, and to the comprehensive plans for growth and development of the Municipalities of Durham, Chapel Hill, Carrboro, and Hillsborough; and the Counties of Durham, Orange, and Chatham. Attention will be given to cooperative planning with the neighboring metropolitan and rural planning organizations.
5. The continuing transportation planning process will be in accordance with the intent, procedures, and programs of Title VI of the Civil Rights Act of 1964, as amended.
6. The continuing transportation planning process will be in accordance with the intent, procedures, and programs of Clean Air Act of 1970, as amended.
7. Transportation policy decisions within the MPO are the shared responsibility of the MPO Board, the N.C. Board of Transportation, and participating local governments.
8. Transportation plans and programs, and land use policies and programs, for the Planning Area, having regional impacts, will be coordinated with Triangle Transit, the neighboring metropolitan and rural planning organizations, and Triangle J Council of Governments.
9. A MPO Board is hereby established with the responsibility for cooperative transportation decision-making for the Durham-Chapel Hill-Carrboro Metropolitan Planning Organization (DCHC MPO). The MPO Board shall have the responsibility for keeping the policy boards informed of the status and requirements of the transportation planning process; assisting in the dissemination and clarification of the decisions, inclinations, and policies of the policy boards, and for providing opportunities for citizen participation in the transportation planning process.

The MPO Board will be responsible for carrying out the provisions of 23 U.S.C. Section 134; Title 49 U.S.C. Chapter 53; and 42 U.S.C. 7504 and 7506(c); including but not limited to:

- a. Establishment of goals and objectives for the transportation planning process;

- b. Review and approval of a Prospectus for transportation planning which defines work tasks and responsibilities for the various agencies participating in the transportation planning process;
- c. Review and approval of the transportation Unified Planning Work Program;
- d. Review and approval of changes to the National Highway System, Functional Classification, and Metropolitan Planning Area boundary;
- e. Review and approval of the Comprehensive and Metropolitan Transportation Plans. As specified in General Statutes Section 136-66.2(a), the Comprehensive Transportation Plan shall include the projects in the Metropolitan Transportation Plan and may include additional projects that are not included in the financially constrained plan or are anticipated to be needed beyond the horizon year as required by 23 U.S.C. Section 134. As specified in General Statutes Section 136-66.2(d) revisions to the Comprehensive Transportation Plan are required to be jointly approved by the North Carolina Department of Transportation and the MPO Board;
- f. Review and approval of the Transportation Improvement Program and changes to the Transportation Improvement Program. As specified in 23 U.S.C. Section 134(k), all federally funded projects carried out within the boundaries of a metropolitan planning area serving a transportation management area (excluding projects carried out on the National Highway System) shall be selected for implementation from the approved TIP by the metropolitan planning organization designated for the area in consultation with the State and any affected public transportation operator;
- g. Review and approval of planning procedures for air quality conformity and review and approval of air quality conformity determination for projects, programs, and plans;
- h. Review and approval of a Congestion Management Process;
- i. Review and approval of the distribution and oversight of federal funds designated for the DCHC MPO under the provisions of MAP-21 and any other subsequent Transportation Authorizations;
- j. Review and approval of a policy for public involvement for the DCHC MPO;
- k. Review and approval of an agreement between the MPO, the State, and public transportation operators serving the Metropolitan Planning Area that defines mutual responsibilities for carrying out the metropolitan planning process in accordance with 23 C.F.R. 450.314;

- l. Oversight of the Lead Planning Agency staff;
- m. Revision in membership of the MPO Technical Committee hereinafter defined;
- n. Development and approval of committee bylaws for the purpose of establishing operating policies and procedures;
- o. Review and approval of cooperative agreements with other transportation organizations, transportation providers, counties, and municipalities.

The membership of the MPO Board shall include:

- a. Two members of the Durham City Council;
- b. One member of the Chapel Hill Town Council;
- c. One member of the Carrboro Board of Aldermen;
- d. One member of the Hillsborough Board of Commissioners;
- e. One member of the Durham County Board of Commissioners;
- f. One member of the Orange County Board of Commissioners;
- g. One member of the Chatham County Board of Commissioners;
- h. One member of the North Carolina Board of Transportation;
- i. One member of the Triangle Transit Board of Trustees.

Municipal and county public transit providers shall be represented on the MPO Board through their respective municipal and county local government board members.

It shall be the responsibility of each member jurisdiction to appoint a representative and an alternate(s) to the MPO Board.

In order for a quorum of the MPO Board to be established:

- a. A simple majority of the voting members shall be present; and
- b. The total number of weighted votes associated with the simple majority, as identified in the weighted voting schedule below, shall represent a majority of the total number of possible weighted votes.

A majority vote shall be sufficient for approval of matters coming before the committee with the exception that a committee member may invoke the following weighted vote provisions on any matter:

<u>Government Body</u>	<u>Votes</u>
City of Durham	16*
Town of Chapel Hill	6
Durham County	4
Orange County	4
Town of Carrboro	2



Chatham County	2
Town of Hillsborough	2
N.C. Board of Transportation	1
<u>Triangle Transit</u>	<u>1</u>
Total	38

\* 8 votes per representative

Representatives from each of the following bodies will serve as non-voting members of the MPO Board:

- a. A representative of the Federal Highway Administration;
- b. A representative of the Federal Transit Administration;
- c. Other local, regional, state, or federal agencies impacting transportation in the planning area at the invitation of the MPO Board.

The MPO Board will meet as often as it is deemed appropriate and advisable. On the basis of a majority vote, the MPO Board may appoint members of the Board to act as Chair and Vice-Chair with the responsibility for coordination of the Board’s activities. A member of the Lead Planning Agency staff will serve as Secretary to the Board and will work cooperatively with the staff of other jurisdictions.

10. A MPO Technical Committee shall be established with the responsibility of general review, guidance and coordination of the transportation planning process for the planning area and with the responsibility for making recommendations to the respective local, state, and federal governmental agencies and the MPO Board regarding any necessary actions relating to the continuing transportation planning process. The MPO Technical Committee shall be responsible for development, review and recommendations for approval and changes to the Prospectus, Unified Planning Work Program, Transportation Improvement Program, National Highway System, Functional Classification, Metropolitan Planning Area boundary, Metropolitan Transportation Plan, and Comprehensive Transportation Plan, for planning citizen participation, and for documenting reports of various transportation studies.

Membership of the MPO Technical Committee shall include technical representatives from local and state agencies directly related to and concerned with the transportation planning process for the planning area. Representatives will be designated by the chief executive officer of each represented agency. Departments or divisions within local and state agencies that should be represented on the MPO Technical Committee include, but are not limited to, those responsible for transportation planning, land use planning, transportation operations, public works and construction, engineering, public transportation, environmental conservation and planning, bicycle and pedestrian planning, and economic development. Initially, the membership shall include, but not be limited to, the following:

- |  |                   |
|--|-------------------|
| a. The City of Durham  | 5 representatives |
| b. The Town of Chapel Hill   | 3 representatives |
| c. The Town of Carrboro  | 2 representatives |
| d. The Town of Hillsborough  | 1 representative  |
| e. Durham County   | 3 representatives |
| f. Orange County   | 3 representatives |
| g. Chatham County  | 1 representative  |
| h. The N.C. Department of Transportation                           | 5 representatives |
| i. Triangle J Council of Governments                               | 1 representative  |
| j. Duke University   | 1 representative  |
| k. N.C. Central University   | 1 representative  |
| l. The University of North Carolina                                | 1 representative  |
| m. The Raleigh-Durham Airport Authority                            | 1 representative  |
| n. Triangle Transit  | 1 representative  |
| o. The Research Triangle Park Foundation                           | 1 representative  |
| p. The N.C. Department of the Environment and<br>Natural Resources | 1 representative  |

The City of Durham’s membership shall not include members of the Lead Planning Agency staff.

In addition to voting membership, the following agencies shall have non-voting membership:

- |  |                  |
|--|------------------|
| a. The Federal Highway Administration                      | 1 representative |
| b. The Federal Transit Administration                      | 1 representative |
| c. The U.S. Army Corps of Engineers                        | 1 representative |
| d. The U.S. Environmental Protection Agency                | 1 representative |
| e. The U.S. Fish and Wildlife Service                      | 1 representative |
| f. The N.C. Department of Cultural Resources               | 1 representative |
| g. The N.C. Department of Commerce                         | 1 representative |
| h. The U.S. Department of Housing and Urban<br>Development | 1 representative |
| i. The N.C. Railroad Company                               | 1 representative |
| j. The N.C. Trucking Association                           | 1 representative |
| k. The N.C. Motorcoach Association                         | 1 representative |
| l. Regional Transportation Alliance                        | 1 representative |

The MPO Technical Committee shall meet when it is deemed appropriate and advisable. On the basis of a majority vote, the MPO Technical Committee may appoint voting members of the Committee to act as Chair and Vice-Chair with the responsibility for coordination of the Committee’s activities.

11. The Durham City Council, Chapel Hill Town Council, Carrboro Board of Aldermen, Hillsborough Board of Commissioners, Durham County Board of Commissioners, Orange County Board of Commissioners, and Chatham County Board of Commissioners shall serve as the primary means for citizen input to the continuing transportation planning process. During the Metropolitan Transportation Plan reevaluation, citizen involvement in the planning process shall be encouraged during re-analysis of goals and objectives and plan formation. This citizen involvement will be obtained through procedures outlined in the MPO's policy for public involvement.

The MPO Board may also receive public input or hold public hearings as may also be required by federal or state law.

## Section II

It is further agreed that the subscribing agencies will have the following responsibilities, these responsibilities being those most logically assumed by the several agencies:

### The Municipalities and the Counties

The municipalities and the counties will assist in the transportation planning process by providing planning assistance, data, and inventories in accordance with the Prospectus. The municipalities and the counties shall coordinate zoning and subdivision approval within their respective jurisdictions in accordance with the adopted Metropolitan Transportation Plan and the Comprehensive Transportation Plan.

Additionally, the City of Durham will serve as the Lead Planning Agency for the transportation planning process in the Planning Area.

The municipalities and the counties will participate in funding the portion of the costs of the MPO's work program not covered by federal or state funding as reflected in the annual Planning Work Program approved by the MPO Board. The portion to be paid by each municipal and county member government will be based upon its pro rata share of population within the MPO Planning Area, utilizing the most recent certified North Carolina Office of State Planning municipal and county population estimates. In addition, MPO members may also voluntarily contribute additional funds for other purposes such as to participate in funding the costs of special studies, or other specialized services as mutually agreed upon.

Funding provided by member agencies will be used to provide the required local match to federal funds. Failure by member agencies to pay the approved share of costs would impact the MPO's ability to match federal funds and could have the effect of invalidating the MPO's Unified Planning Work Program and the annual MPO self-certification, and could also result in the withholding of transportation project funds.

Failure by member governments to pay the approved share of costs may also result in the withholding of MPO services and funding.

The municipalities and the counties receiving federal transportation funding designated for the Durham Urbanized Area as approved by the MPO Board through the Unified Planning Work Program shall comply with adopted reporting and oversight procedures.

#### North Carolina Department of Transportation

The Department will assist in the transportation planning process by providing planning assistance, data, and inventories in accordance with the Prospectus. Should any authorized local government body choose to adopt or amend a transportation corridor official map for a proposed public transportation corridor pursuant to N.C.G.S. § 136-44.50, the Department may offer assistance by providing mapping, data, inventories, or other Department resources that could aid the local government body in adopting or amending a transportation corridor official map.

#### Triangle Transit

Triangle Transit will assist in the transportation planning process by providing planning assistance, data, and inventories in accordance with the Prospectus. Triangle Transit may also voluntarily contribute additional funds for other purposes such as to participate in funding the costs of special studies, or other specialized services as mutually agreed upon. Triangle Transit shall comply with adopted reporting and oversight procedures for the receipt of federal transportation funding designated for the Durham Urbanized Area as approved by the MPO Board through the Unified Planning Work Program.

#### E-Verify Compliance for All Parties to this Agreement

Each of the parties covenants that if it enters into any subcontracts in order to perform any of its obligations under this contract, it shall require that the contractors and their subcontractors comply with the requirements of NC Gen. Stat. Article 2 of Chapter 64. In this E-Verify Compliance section, the words contractors, subcontractors, and comply shall have the meanings intended by applicable provisions of NC Gen. Stat. Chapters 153A and 160A.

### Section III

Parties to this Memorandum of Understanding may terminate their participation in the continuing transportation planning process by giving ninety (90) days written notice to the other parties prior to the date of termination. If any party should terminate participation, this Memorandum of Understanding shall remain in force and the Durham-Chapel Hill-Carrboro Metropolitan Planning Organization shall continue to operate as long as 75% or more of the

population within the Metropolitan Planning Area is represented by the remaining members. For the purpose of determining 75% representation, the populations within incorporated areas are represented by the respective municipal governments and the populations within the unincorporated areas are represented by the respective county governments.

Section IV

In witness whereof, the parties of this Memorandum of Understanding have been authorized by appropriate and proper resolutions to sign the same, the City of Durham by its Mayor, the Town of Chapel Hill by its Mayor, the Town of Carrboro by its Mayor, the Town of Hillsborough by its Mayor, Durham County by its Chair, Orange County by its Chair, Chatham County by its Chair, Triangle Transit by its Chair, and the Secretary of Transportation on behalf of the Governor of the State of North Carolina and the North Carolina Department of Transportation, this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.



City of Durham

*D. Ben Gray*  
\_\_\_\_\_  
Clerk

By

*[Signature]*  
\_\_\_\_\_  
Mayor

(Seal)



Town of Chapel Hill

A blue ink handwritten signature, appearing to be "M. J. ...", written over a horizontal line.

Clerk

By

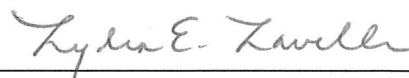
A blue ink handwritten signature, appearing to be "M. J. ...", written over a horizontal line.

Mayor

(Seal)

Town of Carrboro

  
Clerk

By   
Mayor



(Seal)

Town of Hillsborough

Katherine M. Cathey  
Clerk

By Tom Severn  
Mayor



(Seal)

County of Durham

  
Clerk

By   
Chair





(Seal)

County of Orange

*[Handwritten signature]*

Clerk

By

*[Handwritten signature]*

Chair

(Seal)

County of Chatham

Lindsay K. Ray  
Clerk

By B. J. Boat  
Vice Chair

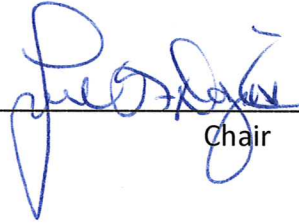
(Seal)

Research Triangle Regional Public  
Transportation Authority  
d/b/a Triangle Transit



Clerk

By



Chair

(Seal)

North Carolina Department of  
Transportation

By \_\_\_\_\_  
Secretary

**BYLAWS**

**DURHAM – CHAPEL HILL – CARRBORO  
METROPOLITAN PLANNING ORGANIZATION  
BOARD**

**ARTICLE I – NAME**

The name of this organization shall be the Durham-Chapel Hill-Carrboro Metropolitan Planning Organization Board, hereinafter referred to as the “MPO Board.”

**ARTICLE II – PURPOSES**

The purpose and goals of this committee shall be:

1. To develop and direct a continuing, comprehensive, multimodal transportation planning process carried on cooperatively by the State and local communities in concurrence with federal guidelines.
2. To advise the policy boards within the Durham-Chapel Hill-Carrboro Urban Area on the status of the needs identified through the continuing multimodal transportation planning process.
3. To facilitate coordination and communication between policy boards and agencies represented on the MPO Board and the Technical Committee (TC).
4. To facilitate coordination between the policy boards of the Durham-Chapel Hill-Carrboro Urban Area and the North Carolina Board of Transportation.
5. To assist the general public in understanding decisions and policies of the policy boards.
6. To act as a forum for cooperative decision-making by elected officials of this urban area in cooperation with the State, thereby serving as the basis for a cooperative planning process.

**ARTICLE III – RESPONSIBILITIES**

As specified in the *Memorandum of Understanding* dated March 12, 2014, the responsibilities of this committee shall include:

1. Establishment of goals and objectives for the transportation planning process; and

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2. Review and approval of a Prospectus for transportation planning which defines work tasks and responsibilities for the various agencies participating in the transportation planning process;
3. Review and approval of the transportation Unified Planning Work Program (UPWP);
4. Review and approval of changes to the National Highway System, Functional Classification, and Metropolitan Planning Area boundary;
5. Review and approval of changes of the Comprehensive and Metropolitan Transportation Plans. As specified in General Statutes Section 136-66.2(a), the Comprehensive Transportation Plan shall include the projects in the Metropolitan Transportation Plan and may include additional projects that are not included in the financially constrained plan or are anticipated to be needed beyond the horizon year as required by 23 U.S.C. Section 134. As specified in General Statutes Section 136-66.2(d) revisions to the Comprehensive Transportation Plan are required to be jointly approved by the North Carolina Department of Transportation and the MPO Board;
6. Review and approval of the Transportation Improvement Program (TIP) and changes to the TIP. As specified in 23 U.S.C. Section 134(k), all federally funded projects carried out within the boundaries of a metropolitan planning area serving a transportation management area (excluding projects carried out on the National Highway System) shall be selected for implementation from the approved TIP by the metropolitan planning organization designated for the area in consultation with the State and any affected public transportation operator;
7. Review and approval of planning procedures for air quality conformity and review and air quality conformity determination for projects, programs and plans;
8. Review and approval of a Congestion Management Process;
9. Review and approval of the distribution and oversight of federal funds designated for the DCHC MPO under the provisions of MAP-21 and any other subsequent Transportation Authorizations;
10. Review and approval of a policy for public involvement for the DCHC MPO;
11. Review and approval of an agreement between the MPO, the State, and public transportation operators serving the Metropolitan Planning Area that defines mutual



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responsibilities for carrying out the metropolitan planning process in accordance with 23 C.F.R. 450.314;

12. Oversight of the Lead Planning Agency staff;
13. Revision in membership of the MPO Technical Committee;
14. Development and approval of committee bylaws for the purpose of establishing operating policies and procedures;
15. Review and approval of cooperative agreements with other transportation organizations, transportation providers, counties and municipalities.

#### **ARTICLE IV – MEMBERS**

##### **Section 1 – Number and Qualifications:**

As specified in the *Memorandum of Understanding* dated November 13, 2013, the MPO Board shall include as voting members:

- A. Two members of the Durham City Council;
- B. One member of the Chapel Hill Town Council;
- C. One member of the Carrboro Board of Aldermen;
- D. One member of the Hillsborough Board of Commissioners;
- E. One member of the Durham County Board of Commissioners;
- F. One member of the Orange County Board of Commissioners;
- G. One member of the Chatham County Board of Commissioners;
- H. One member of the North Carolina Board of Transportation; and
- I. One member of the Triangle Transit Board of Trustees

Representatives of the following bodies will serve as non-voting members of the MPO Board:

- A. A representative of the Federal Highway Administration;

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- B. A representative of the Federal Transit Administration;
- C. Other local, State and/or federal agencies impacting transportation in the planning area at the invitation of the MPO Board. It shall be the responsibility of each member jurisdiction to appoint a representative to the MPO Board.

**Section 2 – Terms of Office:**

All elected representatives serving on the MPO Board may serve for the length of their elected terms. A member may serve successive terms.

**Section 3 – Alternates:**

Each board will appoint an alternate(s) for its representative(s) provided each alternate also meets the same qualifications of membership. That alternate member may serve as a full voting member during any meeting where that board's representative is not in attendance. Proxy and absentee voting are not permitted. No representatives may simultaneously serve as both voting members and alternate members for different policy boards.

**ARTICLE V – OFFICERS**

**Section 1 – Officers Defined:**

The officers of the MPO Board shall consist of a Chair and Vice-Chair to be elected by the members of the Committee.

**Section 2 – Elections:**

Officers shall be elected annually at the last regularly scheduled meeting of the calendar year, as the last agenda item. The newly elected Chair and Vice-Chair shall take office immediately upon their election.

**Section 3 – Terms of Office:**

The term of office for officers shall be one year. Officers shall not serve more than two successive terms. Each officer shall hold office until his/her successor shall have been duly elected or until his/her earlier death, resignation, disqualification, incapacity to serve, or removal in accordance with the law.

**Section 4 – Rotation of Officers:**

The Chair shall rotate among the jurisdictions represented in Durham County, Orange County, and Chatham County so that successive chairs come from different counties (for example, if the Chair is from the City of Durham or Durham County, the next Chair shall be from Carrboro,

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Chapel Hill, Hillsborough, Orange County, or Chatham County). The Vice-Chair shall be from a jurisdiction located in either of the two other counties (i.e., both officers shall not be from that same county).

**Section 5 – Duties of Officers:**

The Chair shall call and preside at meetings and appoint committees. The Chair shall appoint a staff member to serve as Clerk of the Board. The Clerk shall provide or otherwise delegate staff service for the MPO Board, as needed, and will be responsible for taking summary minutes of the Board’s proceedings. The Clerk shall maintain a current copy of the Bylaws as an addendum to the *Memorandum of Understanding*, to be distributed to the public upon request.

In the absence of the Chair, the Vice-Chair shall preside and complete all other duties of the Chair.

**ARTICLE VI – MEETINGS**

**Section 1 – Regular Meetings:**

Meetings will be held regularly in accordance with a meeting schedule to be approved at the last meeting of each calendar year. Meeting notices and agendas are to be mailed by priority first class mail or emailed seven days prior to the meeting. Unless otherwise stated, all meetings will begin at 9:00 a.m. Regular meetings may be cancelled by the Chair should there be insufficient business on the Board’s tentative agenda.

**Section 2 – Special Meetings:**

Special meetings may be called by the Chair or at the request of the majority of the members. At least seven (7) days’ notice shall be given.

**Section 3 – Quorums:**

A quorum shall consist of a majority of the voting members whose votes together represent a majority of the total possible weighted votes identified in the vote schedule below (i.e., six (6) members representing twenty (20) weighted votes must be present for a quorum).

**Section 4 – Attendance:**

Each member shall be expected to attend each regular meeting and each special meeting provided at least seven (7) days’ notice is provided. For members not attending three (3) consecutive MPO Board meetings, the Chair will send to the chief elected officer of the jurisdiction of the member in question, a letter indicating the number of absences and requesting reaffirmation or re-designation of the jurisdiction’s representative.

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**Section 5 – Agenda**

The agenda is a list of considerations for discussion at a meeting. Items on the agenda originate as a carryover from previous MPO Board meetings, or are placed on the agenda prior to its distribution by any member of the MPO Board, by request from any jurisdiction which is a party to the *Memorandum of Understanding*, or by the request of the Chair of the Technical Committee. Additional items may be added to the agenda at the beginning of the meeting as long as there is a majority concurrence of the eligible voting members. Additions to the agenda will follow discussion of the last item on the regular agenda. At the beginning of any meeting, items may be placed on the agenda at the request of citizens with majority concurrence by eligible voting Board members.

**Section 6 – Voting Procedures:**

Any voting member may make or second a motion. The Chair and any voting member may call for a vote on any issue, provided that it is seconded and within the purposes set forth in Article II, and provided the issue is on the agenda as outlined in Section 5 of this article. As specified in the *Memorandum of Understanding*, a majority vote of the voting membership shall be sufficient for approval of matters coming before the Board with the exception that a Board member may invoke the following weighted voting procedures on any matter.

**GOVERNMENTAL BODY VOTES**

City of Durham	16*
Town of Chapel Hill	6
Durham County	4
Orange County	4
Town of Carrboro	2
Chatham County	2
Town of Hillsborough	2
N.C. Board of Transportation	1
<u>Triangle Transit</u>	<u>1</u>
TOTAL	38

\* 8 votes per representative.

The Chair and qualified alternates to voting members are permitted to vote. Non-voting members are not permitted to vote. Abstentions are not included in the tally of the vote. The vote of members who are present at the meeting, but absent during the vote, will be counted in the affirmative unless an authorized alternate is present and voting for the absent member. In the absence of any direction from these Bylaws, *Robert’s Rules of Order* will designate procedures governing voting.

August 13, 2014

**ARTICLE VII – AMENDMENTS TO BYLAWS**

Amendments to these Bylaws of the MPO Board shall require the affirmative vote of at least six (6) jurisdictions' voting members, provided that written notice of the proposed amendment has been received by each member at least seven (7) days prior to the meeting at which the amendment is to be considered, and provided that such amendment does not conflict with the letter or fundamental intent of the *Memorandum of Understanding* governing this document. In the event of any conflict, the *Memorandum of Understanding* shall carry precedence over these Bylaws.

Presented to the MPO Board on August 13, 2014.

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# The State Government Ethics Act

## Overview for MPOs & RPOs

August 20, 2012

Overview of MPOs, RPOs &  
The State Government Ethics Act:

## Background

## What is the State Government Ethics Act?

- \* Chapter 138A of the NC General Statutes.
- \* Establishes a code of conduct for certain elected and appointed public officials and employees.
- \* Requires financial disclosures & ethics education.
- \* Prohibits certain conduct.
- \* Interpreted & enforced by the State Ethics Commission.
  - \* 8 members appointed by the Governor & General Assembly.

Prepared by: State Ethics Commission

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## Why Are MPOs & RPOs Covered by the Ethics Act

- \* In 2012, the General Assembly enacted legislation covering all MPOs & RPOs (S.L. 2012-142)

### APPLY STATE ETHICS ACT TO METROPOLITAN PLANNING ORGANIZATIONS AND RURAL PLANNING ORGANIZATIONS

**SECTION 24.16.(a)** G.S. 136-202 is amended by adding a new subsection to read:

"(e) A Metropolitan Planning Organization shall be treated as a board for purposes of Chapter 138A of the General Statutes."

**SECTION 24.16.(b)** G.S. 136-211 is amended by adding a new subsection to read:

"(e) Ethics Requirements. – A Rural Transportation Planning Organization shall be treated as a board for purposes of Chapter 138A of the General Statutes."

**SECTION 24.16.(c)** Members of Metropolitan Planning Organizations and Rural Transportation Planning Organizations shall file an initial Statement of Economic Interest with the State Ethics Commission no later than April 15, 2013. All information provided in the Statement of Economic Interest shall be current as of December 31, 2012. The initial Statement of Economic Interest shall be filed electronically.

**SECTION 24.16.(d)** This section becomes effective January 1, 2013.

Prepared by: State Ethics Commission

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## Are Both the TCCs & TACs Covered and When Does Coverage Begin?

- \* Both the TCC & TAC of each MPO and RPO are covered by the Ethics Act
- \* Coverage begins **JANUARY 1, 2013.**

*Overview of MPOs, RPOs &  
The State Government Ethics Act:*

## Duties & Responsibilities

## File Financial Disclosure: Statement of Economic Interest (SEI)

### WHAT

- \* Certain financial, professional & personal information about you & your *immediate family*, including: spouse, unless legally separated; unemancipated children living in your household & members of your *extended family who live with you*.

### WHEN

- \* **Filing Period Opens: January 1, 2013.**
- \* **Deadline: April 15, 2013.**
- \* Must file **annually no later than April 15<sup>th</sup>**.
- \* After SEI properly completed & filed, no duty to amend or update the SEI during the year.

### HOW

- \* Must file **electronically** via the Commission's website.

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## SEI Penalties

### Civil

- \* **\$250 civil penalty** for late, incomplete, or non-filing.

### Criminal

- \* **Criminal penalties** for knowingly concealing or providing false information.

### Removal

- \* May be removed from position as MPO or RPO member.

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## SEI Evaluations

- \* SEI evaluated for actual & potential conflicts of interest.
  - \* NOTE: Having a potential conflict does not disqualify you from serving!!!
- \* SEI & evaluation are **public record**.

## Ethics Education

- \* Goal is to familiarize you with ethics laws.
- \* Can attend a live presentation or complete the online education modules.
- \* Schedule & online presentation available on website:  
[www.ethicscommission.nc.gov/education/default.aspx](http://www.ethicscommission.nc.gov/education/default.aspx)
- \* **Deadline: On or before June 30, 2013.**
- \* Must attend refresher presentations at least every 2 years thereafter.
- \* Local government ethics education does not satisfy the ethics act education requirement.

## Monitor & Avoid Conflicts of Interest

- \* Duty to
  - \* Identify potential conflicts of interest prior to taking any official action or participating in discussions.
  - \* Monitor, evaluate & manage personal, professional & financial affairs for potential conflicts of interest.

Overview of MPOs, RPOs &  
The State Government Ethics Act:

## Prohibitions

## Conflicts of Interest

- \* Prohibited from taking any “official action” where you or certain individuals or entities with which you are associated may receive a “financial benefit” from your official action.
- \* Recuse yourself from any proceeding where your impartiality might reasonably be questioned due to a relationship with a participant in the proceeding.
- \* Are exceptions, or “Safe Harbors” which allow you to take official action notwithstanding the conflict.
- \* If no “Safe Harbor” applies, will need to recuse yourself.

## “Gift Ban”

- \* Cannot accept gifts from certain “prohibited givers”
  - \* Lobbyists; lobbyist principals; & “interested persons” (certain persons who have a relationship with or who are affected by your MPO or RPO).
- \* **“Gift”** is anything of monetary value from prohibited giver.
- \* **Value of gift does not matter!**
- \* Are exceptions, especially food & beverage for groups, but must meet ALL criteria for exception to apply.

## Other Prohibitions

- \* Prohibitions or limitations on use of your title as MPO or RPO board member.
- \* Prohibited from misusing confidential or non-public information.
- \* Cannot hire or supervise family members.
- \* Cannot accept honoraria in some cases.
- \* Limited exceptions to all of the above.

*Overview of MPOs, RPOs &  
The State Government Ethics Act:*

## Complaints & Consequences

## Complaints

- \* Anyone can file complaint against you with the State Ethics Commission.
- \* Dismiss, settle, or hold a hearing.
- \* Complaints & all associated documents are confidential & not public records, unless:
  - \* Hearing is held; or,
  - \* Sanctions are imposed without a hearing.

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## Consequences

- \* Can be removed from position as MPO or RPO board member.
- \* Civil penalty may apply for SEI violations.
- \* Criminal penalties may apply for knowingly providing false information or failing to disclose information on SEI.

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Overview of MPOs, RPOs &  
The State Government Ethics Act:

## Questions & Advice

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## Advice & Advisory Opinions

- \* Right to ask about any question you have about ethics act.
- \* All requests and associated documents are confidential and not public records.
- \* Advisory opinions issued by the State Ethics Commission confer immunity from investigation by the State Ethics Commission.

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## Important Dates & Deadlines

- \* **January 1, 2013**
  - \* Effective date of coverage under State Government Ethics Act.
  - \* Conflicts of interest standards, gift ban, and other duties and prohibitions apply.
  - \* SEI filing period opens.
- \* **April 15, 2013**
  - \* Deadline for filing Statement of Economic Interest (SEI).
- \* **June 30, 2013**
  - \* Deadline for attending ethics education.

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## Contact Information

- ❖ **MAILING ADDRESS**  
Mail Service Center  
Raleigh, NC 27699-1324
- ❖ **STREET ADDRESS**  
424 N. Blount Street  
Raleigh, NC 27601-1010
- ❖ **PHONE & FAX**  
Phone: 919-715-2071  
Fax: 919-715-1644
- ❖ **E-MAIL**
  - SEI Questions: [SEI@doa.nc.gov](mailto:SEI@doa.nc.gov)
  - Education Questions: [Education.Ethics@doa.nc.gov](mailto:Education.Ethics@doa.nc.gov)
  - Other Questions: [ethics.commission@doa.nc.gov](mailto:ethics.commission@doa.nc.gov)
- ❖ **WEBSITE**  
[www.ethicscommission.nc.gov](http://www.ethicscommission.nc.gov)

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## New Ethics Requirements for Local Transportation Planning Organizations – Round 2

Posted By [Norma Houston](#) On June 28, 2013 @ 1:25 PM In [Ethics & Conflicts](#) | [No Comments](#)

During the 2012 short session, the General Assembly enacted legislation that covered members of local transportation planning groups, known as RPOs and MPOs, under the State Government Ethics Act ([GS Chapter 138A](#) <sup>[1]</sup>), the same ethics laws that apply to many state officials (for more about MPO's and RPO's and last year's legislation, see [this previous post](#) <sup>[2]</sup>). Responding to concerns about the breadth and scope of these ethics requirements, especially as they applied to local government employees serving on MPO and RPO technical committees, the General Assembly recently enacted [Senate Bill 411 \(SL 2013-156\)](#) <sup>[3]</sup>.

This legislation makes two important changes to current law:

1. Repeals the statutes that included MPOs and RPOs under the State Government Ethics Act, meaning that members of MPOs and RPOs are no longer subject to the requirements and prohibitions of Chapter 138A, and
2. Puts in place a more narrowly focused set of ethics requirements that only apply to members of MPOs and RPOs with voting authority, meaning the members of the organizations' policy boards (usually referred to as TACs).

The new requirements are now codified as GS 136-200.2(g)-(k) (for MPOs), and GS 136-211(f)-(k) (for RPOs). What are these new requirements and what do they mean for local government officials and employees?

### TCC Members No Longer Covered Under State Ethics Act

Under SB411, state and local government employees and others who serve on MPO and RPO Technical Coordinating Committees (TCCs) are no longer covered under the State Government Ethics Act. In addition, they are not subject to the new ethics requirements that now apply to MPO and RPO Transportation Advisory Committees (TACs). Under the old law, members of both TCCs and TACs were covered under the State Government Ethics Act. Now, neither TCCs nor TACs are covered under Chapter 138A, and only TACs are covered under the new ethics requirements. The long title of the bill specifically references "Transportation Advisory Committees," and the new statutory provisions clearly state that only "individuals with voting authority" on MPOs and RPOs are subject to the new ethics requirements. Although TCC members might take votes when conducting their business, such as approving their recommendations to a TAC, the clear intent of the General Assembly is to apply the new MPO/RPO ethics requirements only to members of TACs.

SB411 went into effect at 4:27 p.m. on June 19<sup>th</sup> (the time and date when Governor McCrory signed the bill into law). As of that moment, local government employees serving on TCCs were no longer subject to the State Government Ethics Act. Nor are they subject to the new ethics requirements that are now applicable to MPO and RPO TAC members. Of course, local government employees must continue to comply with other conflicts of interest laws, including the prohibitions against self-benefiting under public contracts ([GS 14-234](#) <sup>[4]</sup>), misusing confidential information ([GS 14-234.1](#) <sup>[5]</sup>), and accepting gifts or favors from vendors and contractors ([GS 133-32](#) <sup>[6]</sup>).

During the 6-month timeframe in which local employees serving on TCC's were covered under the State Government Ethics Act, they were required to file a Statement of Economic Interest (SEI) disclosing certain personal financial information. Now that TCCs are no longer subject to Chapter 138A, TCC members are not required to file SEIs, which are a matter of public record. So, what happens to those SEIs filed earlier this year by TCC members? To ensure that local employees' personal financial information is not subject to public inspection now that there is not a legal basis for the disclosure, the State Ethics Commission (SEC) is authorized to destroy the SEI's filed by TCC members as well as the SEC's written evaluations of those SEIs.

There is one way in which state or local government employees could become subject to the new ethics requirements that apply to TAC members. If an employee serves as the alternate or designee of a TAC member, that employee becomes subject to the new ethics requirements. Coverage of alternates and designees is discussed below in more detail.

### TAC Members Have New Ethics Requirements

Under the old law, local government officials and others serving on TACs were subject to the entire scope of ethics requirements and prohibitions under Chapter 138A. Under the new law, TACs are no longer covered under the State Ethics Act. Instead, all voting members of TACs, as well as their alternates or designees, are subject to a new set of ethics requirements. These requirements are:

1. Conflict of Interest Prohibition – Members must refrain from participating in any action as a MPO or RPO TAC member if the action would result in a reasonably foreseeable financial benefit to the member, the member’s extended family, or any business with which the member is associated.
2. Disclose Conflicts of Interest – Members must promptly disclose in writing any actual or potential conflicts of interest. The written disclosure, which is a public record, must be attached to the minutes of the MPO/RPO meeting in which any discussion or vote was taken related to the disclosed conflict.
3. Disclose Economic Interests – Members must file a Statement of Economic Interest (SEI) as required under [Article 3 of Chapter 138A](#) <sup>[7]</sup>; the SEI must be filed and evaluated by the State Ethics Commission before the member can take his or her position on the MPO or RPO TAC to which he or she is appointed (this requirement is the only aspect of the previous law that is carried forward under the new law). Just as under the old law, the penalty for failure to timely file a SEI can result in a \$250 fine.
4. Disclose Real Estate Interests – Members must include with the SEI a separate list of all real estate owned wholly or in part by the member, the member’s extended family, or a business with which the member is associated. This requirement applies to real estate located within the jurisdiction of the MPO or RPO on which the member serves.
5. Confidential Information – Members cannot use or disclose nonpublic information the member learns as a result of serving on a MPO or RPO in a way that would affect the personal financial interests of the member, the member’s extended family, or a business with which the member is associated.

Members of the State Board of Transportation serving on TACs continue to be covered by the State Government Ethics Act, and are not subject to the new ethics requirements for other TAC members.

The new ethics statutes specifically define three terms that are directly related to the prohibitions against conflicts of interest and misusing confidential information as well as the real estate disclosure requirement. To ensure full compliance with the new ethics laws, TAC members should be aware of these definitions.

1. Extended family – The term “extended family” is defined as the member’s spouse, lineal descendants (such as children and grandchildren), lineal ascendants (parents, grandparents, etc.), and siblings, as well as his or her spouse’s lineal descendants, lineal ascendants, and siblings (i.e., the member’s in-laws), and the spouses of any of these individuals. ([GS 138A-3\(13\)](#) <sup>[8]</sup>)
2. Business with which associated – The term “business with which associated” is defined as a business in which member or his or her immediate family
  1. is an employee;
  2. holds a position as a director, officer, partner, proprietor, or member or manager of a limited liability company, irrespective of the amount of compensation received or the amount of the interest owned;
  3. owns a legal, equitable, or beneficial interest of ten thousand dollars (\$10,000) or more in the business or five percent (5%) of the business, whichever is less, other than as a trustee on a deed of trust; or
  4. is a lobbyist registered under Chapter 120C of the General Statutes. ([GS 138A-3\(3\)](#) <sup>[8]</sup>)
3. Financial benefit –The term “financial benefit” is defined as a “direct pecuniary gain or loss to a business competitor,” which mirrors the definition of financial benefit under Chapter 138A.

### TAC Alternates and Designees Are Covered Under New Ethics Laws

The new ethics requirements apply to “individuals with voting authority” who serve on MPOs and RPOs (i.e., members of TACs). Members often designate individuals to serve as their alternates or designees on the TAC. Because alternates or designees act in the place of the TAC member, they have the same voting privileges as those members, thus making them “individuals with voting authority.” Consequently, TAC alternates and designees are subject to the same ethics requirements under the new law as the TAC members themselves. Although state and local government employees serving on TCCs are not covered under the new ethics requirements, an employee who is appointed as an alternate or designee of a TAC member would be covered.

### Sanctions for Violations

The new law imposes sanctions for violations of its provisions. Violating the conflict of interest prohibition is punishable as a Class 1 misdemeanor. Failing to timely file a SEI may result in a \$250 fine. Knowingly concealing or failing to disclose required financial or real estate information is punishable as a Class 1 misdemeanor; filing false financial or real estate information is punishable as a Class H felony. While no specific penalty is provided for misusing nonpublic information, this prohibition is essentially the same as that under [GS 14-234.1](#) <sup>[5]</sup>, which is punishable as a Class 1 misdemeanor.

### State Ethics Act Requirements No Longer Applicable

While TAC members must now comply with the new ethics requirements, they are no longer required to comply with any of the provisions of the State Ethics Act other than the SEI filing requirement. Notably, members of MPO and RPO TACs are no longer required to participate in state ethics training every two years, and they are no longer subject to the prohibition accepting gifts from lobbyists, lobbyists’ principals, or interested persons. Of course, as local elected officials, they are still subject to the prohibition against accepting gifts or favors from vendors and contractors under [GS 133-32](#) <sup>[6]</sup>, and must still participate in local ethics training within twelve months of each election and reelection ([GS 160A-87](#) <sup>[9]</sup> for city council members and [153A-53](#) <sup>[10]</sup> for county commissioners).

### Board Clerks Have No Obligations under New Ethics Laws

Clerks to city councils and county boards of commissioners have no legal obligations under the new ethics laws. In particular, board clerks are not required to maintain a copy of a TAC member’s SEI or real estate disclosure list. The SEI and real estate disclosure list must be filed with the State Ethics Commission; filing these forms with the board clerk does not satisfy the TAC member’s legal obligations.

In addition, if a TAC member must disclose in writing an actual or potential conflict of interest related to a MPO or RPO matter, that written disclosure must be attached to the minutes of the MPO or RPO meeting in which any discussion or vote was taken related to the disclosed conflict. The conflict disclosure should not be filed with the clerk unless the clerk maintains the minutes of TAC meetings.

### New MPO/ RPO Ethics Requirements Do Not Apply to Other Local Government Officials

The new ethics requirements apply to voting members of MPO and RPO TACs only. These requirements do not apply to other local government officials or employees. City council members and county commissioners who do not serve on a TAC are not required to file SEIs or real estate interests lists. The new conflict of interest prohibition and written disclosure requirement do not apply to matters coming before a city council or county board of commissioners. Of course, all local officials must still comply with other conflicts of interest laws, including the prohibitions against self-benefiting under public contracts ([GS 14-234](#) <sup>[4]</sup>), misusing confidential information ([GS 14-234.1](#) <sup>[5]</sup>), and accepting gifts or favors from vendors and contractors ([GS 133-32](#) <sup>[6]</sup>), regardless of whether they serve on a TAC.

### Where to Go For More Information and Advice

Under the old law, TAC members could seek informal and formal advice from the [State Ethics Commission](#) <sup>[11]</sup> since that entity has jurisdiction over interpretations of Chapter 138A. Now that TAC members are subject to separate ethics requirements and not covered under Chapter 138A except for the SEI filing requirement, the SEC has no legal jurisdiction over questions of interpretation of the new law. The SEC is still the appropriate entity for TAC members to contact if they have questions about [SEI and real estate disclosure filing requirements](#) <sup>[12]</sup> (the SEC will

be developing a separate form to be used for real estate disclosures). For other questions about the new ethics requirements, a TAC member should consult with the attorney that advises the MPO or RPO on which the member serves or contact [Norma Houston](#) <sup>[13]</sup> at the UNC School of Government.

In the coming weeks, the School of Government, State Ethics Commission, and NCDOT's Transportation Planning Branch will develop educational materials and training programs to help TAC members understand and comply with their new ethical obligations. Information and updates will be disseminated by the SOG, SEC, and DOT through multiple communication channels and posted on their websites.

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Article printed from Coates' Canons: NC Local Government Law Blog: <http://canons.sog.unc.edu>

URL to article: <http://canons.sog.unc.edu/?p=7186>

URLs in this post:

[1] GS Chapter 138A: <http://www.ncleg.net/gascripts/Statutes/StatutesTOC.pl?Chapter=0138A>

[2] this previous post: <http://canons.sog.unc.edu/?p=6861>

[3] Senate Bill 411 (SL 2013-156):  
<http://www.ncleg.net/gascripts/BillLookup/BillLookup.pl?Session=2013&BillID=SB411&submitButton=Go>

[4] GS 14-234: <http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=14-234>

[5] GS 14-234.1: <http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=14-234.1>

[6] GS 133-32: <http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=133-32>

[7] Article 3 of Chapter 138A:  
[http://www.ncleg.net/EnactedLegislation/Statutes/HTML/ByArticle/Chapter\\_138A/Article\\_3.html](http://www.ncleg.net/EnactedLegislation/Statutes/HTML/ByArticle/Chapter_138A/Article_3.html)

[8] GS 138A-3(13):  
[http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_138A/GS\\_138A-3.html](http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_138A/GS_138A-3.html)

[9] GS 160A-87: <http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=160A-87>

[10] 153A-53:  
[http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_153A/GS\\_153A-53.html](http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_153A/GS_153A-53.html)

[11] State Ethics Commission: <http://www.ethicscommission.nc.gov/>

[12] SEI and real estate disclosure filing requirements:  
<http://www.ethicscommission.nc.gov/sei/default.aspx>

[13] Norma Houston: <http://www.sog.unc.edu/user/78>



## **Durham-Chapel Hill-Carrboro Metropolitan Planning Organization**

### **Member Governments:**

**Town of Carrboro  
Town of Chapel Hill  
County of Chatham  
City of Durham  
County of Durham  
Town of Hillsborough  
N.C. Department of  
Transportation  
County of Orange**

# **Public Involvement Policy**

## **November 14, 2012**

City of Durham  
Transportation Division  
101 City Hall Plaza  
Durham, NC 27701

(919) 560-4366

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**Appendix**

Limited English Proficiency Plan

Durham-Chapel Hill-Carrboro Organización de Planeamiento Metropolitano Póliza de Participación Publica puede ser traducida en [español sobre petición](#).



## **I. Introduction**

The Durham-Chapel Hill-Carrboro Metropolitan Planning Organization's (DCHC MPO's) Public Involvement Policy is an umbrella policy, encompassing the plans and programs of the Urban Area's transportation planning process. Public involvement is an integral part of the DCHC MPO's planning efforts. The Public Involvement Policy is comprised of the public involvement programs for all the major planning activities, including the Transportation Plan, the Transportation Improvement Program (TIP), the Air Quality Conformity Determination, the Major Investment Study (MIS), the Unified Planning Work Program (UPWP), the MPO's provisions for the American with Disabilities Act (ADA), and on-going transportation planning (3C) process. The policy decision making body, the Transportation Advisory Committee (TAC), also has a standing public process as part of its monthly meetings. The planning activities mentioned above are, therefore, subject to the TAC's process for public involvement. The Policy also contains a review component to assess the value of the MPO programs on a triennial basis.

The DCHC MPO will seek public input through a menu of techniques, including public notices, comment periods, workshops, charrettes, public hearings, newsletters, surveys, media relations and input from committees and commissions that are appointed by local member governments. The techniques employed will vary, depending on the specific planning task. The MPO will hold a forty-five (45) day public comment period for amendments to the Policy and will hold a public hearing every three years to seek input and feedback on the MPO's public involvement efforts. The DCHC MPO's Public Involvement Policy will be consistent with the requirements of the Safe, Accountable, and Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), the National Environmental Policy Act (NEPA) and the FTA/FHWA Guidance and Proposed Rule Making (NRM) on Public Participation.

## **II. Purpose**

The purpose of the DCHC MPO Public Involvement Policy is to create an open decision making process whereby citizens have the opportunity to be involved in all stages of the transportation planning process. This Policy is designed to ensure that transportation decisions will reflect public priorities.

## **III. Objectives**

1. Bring a broad cross-section of the public into the public policy and transportation planning decision-making process.

2. Maintain public involvement from the early stages of the planning process through detailed project development.
3. Use different combinations of public involvement techniques to meet the diverse needs of the general public.
4. Determine the public's knowledge of the metropolitan transportation system and the public's values and attitudes concerning transportation.
5. Educate citizens and elected officials in order to increase general understanding of transportation issues.
6. Make technical and other information available to the public using the MPO web site and other electronically accessible formats and means as practicable.
7. Employ visualization techniques to MPO metropolitan transportation plans, TIPs and other project planning activities.
8. Consult with federal and State agencies responsible for land management, natural resources, environmental protection, conservation, historic preservation and economic development in the development of metropolitan transportation plans TIPs and project planning.
9. Establish a channel for an effective feedback process.
10. Evaluate the public involvement process and procedures to assess their success at meeting requirements specified in the SAFETEA-LU, NEPA and the Interim FTA/FHWA Guidance on Public Participation.

#### **IV. General Policy Framework**

It is the policy of the Durham-Chapel Hill-Carrboro Metropolitan Planning Organizations (DCHC MPO) to have a proactive public involvement process that provides complete information, timely public notice, and full public access to DCHC MPO activities at all key stages in the decision making process. It is also DCHC-MPO policy to involve the public early in the planning process, and to actively seek out the involvement of communities most affected by particular plans or projects. Furthermore, it is a goal of the PIP that the MPO's TIP, UPWP and transportation plans and programs, be developed in a manner that assures that the public, and affected communities in particular, are afforded ample opportunity to participate in the development of such plans.

#### **IV.A Activities Subject to Public Involvement**

DCHC MPO shall provide early and continuing public involvement opportunities throughout the transportation planning and programming process.

*IV.A.1. Planning Activities:* Special emphasis shall be given to engage the public in planning studies that form the basis for later programming decisions. Planning activities include corridor studies and special regional studies, environmental assessment studies, development of the DCHC MPO Metropolitan Transportation Plan (MTP) and Comprehensive Transportation Plan (CTP). The MPO shall make every effort to involve the affected community through methods such as local direct mailing, transportation related committees of local jurisdictions, public information meetings, and newsletters.

*IV.A.2. Programming Activities:* Opportunities for the public to participate shall also be provided through the project selection, programming, NEPA Process and project development phases. These activities include the development of the Regional Priority List and the Transportation Improvement Program (TIP), and the adoption or amendment of the Regional Priority List and TIP.

#### **IV.B Definition of Public and Stakeholders**

The DCHC-MPO shall make an effort to inform and engage both the general public and stakeholders as appropriate.

*IV.B.1. General Program:* As part of its general planning and programming process, the DCHC MPO will try to involve the following: citizens, member municipalities, affected public agencies, representatives of neighborhood groups, public and private providers of transportation, and other parties who express an interest in the process.

*IV.B.2. Special Studies:* For special studies that the DCHC MPO conducts, it shall make an effort to identify and involve persons and groups that might be affected by potential changes to the particular transportation service or facility under review. Examples include the following; abutting property owners, neighborhood associations, environmental groups, appropriate federal, State and local agencies responsible for land-use, environmental and economic development, and businesses within the study area.

*IV.B.3. Outreach to Special Groups:* The DCHC MPO shall also make a special effort to seek out and consider the needs of groups or communities traditionally not well-served by existing transportation systems. These include,

but are not limited to low-income households and minority households. To assure adequate participation of these groups, the MPO shall use tools such as advisory boards (whose members shall be either low-income or minority individuals, or represent low-income or minority groups), target mailing list, workshops, and public notices in minority or low-income targeted media outlets.

The MPO's efforts in this regard shall be consistent with the Environmental Justice Executive Order (EO 12898) dated February 11, 1994, and other related guidance from the Federal Highway Administration (FHWA) and Federal Transit Administration (FTA).

The MPO shall also make a special effort to seek out and consider the needs of individuals or communities with Limited English Proficiency. The DCHC-MPO efforts in this regard shall be consistent with the signed Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency," dated August 11, 2000, and other related guidance from the FHWA and FTA.

Federal regulations define Persons with Limited English Proficiency as individuals with a primary or home language other than English who must, due to limited fluency in English, communicate in that primary or home language if the individuals are to have an equal opportunity to participate effectively in or benefit from any aid, service or benefit in federally-funded programs and activities.

#### **IV.C. Adequate Time for Public Comment**

The MPO shall allow reasonable time for public review and comment at key decision points. These include, but are not limited to, action on the Metropolitan Transportation Plan (MTP), Unified Planning Work Program (UPWP) and the Transportation Improvement Program (TIP). Minimum notification periods shall be as follows:

- Amendments to DCHC-MPO's Public Involvement Policy – 45 days
- Adoption of the TIP & major TIP amendments – 21 days
- Adoption of the TIP Regional Priority List & major amendments – 21 days
- Adoption of the MTP/CTP & major amendments – 42 days
- Adoption of the Air Quality Conformity Determination – 30 days
- Adoption of the UPWP & major amendments – 21 days
- Policy Board (TAC) & Technical Committee (TCC) meetings – 7 days

#### **IV.D. Method of Notifying the Public**

The MPO shall use appropriate methods to notify the public of its activities and of opportunities for public involvement. Determination of which methods to use must be done for each individual transportation planning program or study. However, the minimum requirements are listed below:

- Legal notices in local newspapers
- MPO web site
- Mailing lists
- Targeted mailings to neighborhood and advocacy groups
- Press Releases
- Periodic MPO newsletters

*IV.D.1. Schedule of Meetings:* For regularly scheduled meetings (Transportation Advisory Committee - TAC and the Technical Coordinating Committee -TCC), the annual schedule of meetings shall be filed with the City of Durham (the Lead Planning Agency) clerk's office and each town clerk's office at the beginning of each calendar year.

*IV.D.2. Meeting Notices:* A notice of each TCC and TAC meeting shall be filed with every town clerk's office. A notice for MPO public involvement meetings or workshops shall be advertised in local newspapers. The notice for public meetings/workshop shall include a statement, in Spanish, that translator services may be requested in advance. The notice shall also include a statement that sign language services may be requested in advance.

*IV.D.3. TAC & TCC Meetings Public Comment:* Every TCC and TAC meeting agenda by DCHC MPO will include an opportunity for public comment.

*IV.D.4. Mailing Lists:* DCHC MPO shall maintain a master mailing list for public involvement/outreach activities. The mailing list shall include broad representation of MPO member jurisdictions, multi-modal transportation groups, environmental justice communities, neighborhood groups, local and State agencies responsible for environmental protection, conservation, land use management, natural resources, historic preservation, etc. The following separate lists shall be maintained: TAC, TCC, EJ/LEP, special projects, bicycle and pedestrian advocacy, MTP/CTP, TIP, sub-area projects and UPWP. Notices of meetings shall be sent to all persons on the corresponding mailing list. Anyone may request that his or her name be added to a particular mailing list by indicating the particular list and providing either an email address or a regular mail address.

*IV.D.5. DCHC MPO web site:* DCHC MPO shall maintain a calendar of meetings and activities on its web site. The MPO also shall make

technical and other information available to the public using the MPO web site and other electronically accessible formats and means as practicable. The web site shall also include copies of appropriate reports, plans, maps and visualization information pertaining to MPO planning activities and programs.

IV.D.6. Visualization Techniques: DCHC MPO shall employ visualization techniques in disseminating information relating to MPO metropolitan transportation plans, TIPs and other planning programs. The goal of the MPO visualization policy is to help the public and decision makers visualize and interact with transportation plans and projects, alternatives, large data sets and land-use information more effectively. Visualization techniques will vary, and could range from GIS displays, mappings and land-use/transportation scenario planning tools to information technology, such as three-dimensional digital models, web-based information systems, transportation and urban simulation, and Internet communications.

IV.D.7. Legal Notices in Newspapers: Anytime the MPO initiates a formal public comment period, notice of the opportunity to comment shall be posted in a legal ad in the area's major daily newspaper, and other local, minority, or alternative language newspapers, as appropriate.

IV.D.8. Interested Parties: DCHC MPO shall mail meeting notices to persons who have expressed a special interest in DCHC MPO's overall transportation program, or specific studies. The MPO shall add persons who have expressed such an interest to the appropriate DCHC MPO mailing list.

IV.D.9. Additional Methods: The DCHC MPO shall give consideration to alternative methods of involving the public that are appropriate to the project. Such methods may include, but are not limited to newsletters, transportation related committees of MPO member jurisdictions, advertising in minority and alternative language newspapers, distributing information through public libraries and community groups (especially those serving EJ and LEP communities, the elderly and persons with disabilities), using local government cable access stations, using open house format meetings, involving focus groups for specially selected topics, preparing press releases, and holding events at special locations.

**IV.E. Documentation of Public Comment & Response:**

DCHC MPO shall document public comments received during the course of public input process. The MPO shall also document how it responded to public comments.

*IV.E.1. Comments Received:* Documentation of comments may be accomplished in a manner appropriate to the project and the nature of the comments. Documentation may consist of meeting minutes, a file of letters, or a special memo that summarizes the comments. A written summary of comments and responses shall be prepared to provide the feedback to the public.

*IV.E.2. Response to Comments:* DCHC MPO shall provide a descriptive summary of how it responded to significant public comments during the development of a plan or document such as the MTP/CTP, air quality conformity, Regional Priority List and TIP. The summary may be produced as a separate report or included as a short section in the final plan or document.

## **V. Policy Elements**

The DCHC MPO's Public Involvement Policy is comprised of a number of sub-policies. All planning programs and activities are required to go through the Transportation Advisory Committee's public process. In addition, the MPO has initiated public involvement programs for the Transportation Plan, the Transportation Improvement Program (TIP), the Air Quality Conformity Determination, the Major Investment Study (MIS), the Unified Planning Work Program (UPWP) and the MPO's provisions for American with Disabilities Act (ADA). The final component of the Public Involvement Policy is the policy review element designed to ensure that the programs are meeting their goals.

## **VI. Specific Requirements**

The Durham-Chapel Hill-Carrboro MPO's Public Involvement Policy is designed to be consistent with the requirements of SAFETEA-LU, NEPA and the Interim FTA/FHWA Guidance of Public Participation. These requirements are included in the appendix of this document.

## **VII. Access to MPO Documents and Technical Information.**

DCHC MPO shall provide reasonable public access to technical and policy information used in the development of the Metropolitan Transportation Plan (MTP), the Transportation Improvement Program (TIP), and related studies, plans, and programs.

## **VIII. Title VI**

Title VI of the Civil Rights Act of 1964 and the 1994 President's Executive Order on Environmental Justice #12898 state that no person or group shall be excluded from participation in, or denied the benefits of, any program or activity utilizing federal funds.

The Durham-Chapel Hill-Carrboro Metropolitan Planning Organization (DCHC MPO) is required to identify any disproportionately high and adverse health or environmental effects of its programs on minority and low-income populations. The DCHC MPO is also charged with evaluating the MPO plans and programs for environmental justice (EJ) sensitivity, including expanding their outreach efforts to low-income, minority, and other disadvantaged populations, as part of the United States Department of Transportation's certification requirements. The MPO's environmental justice initiatives accomplish this by involving the potentially affected public in developing transportation projects that fit harmoniously within their communities.

It is the policy of the Durham-Chapel Hill-Carrboro Metropolitan Planning Organization (DCHC MPO) to ensure that no person shall, on the ground of race, color, sex, age, national origin, or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity as provided by Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987, and any other related non-discrimination Civil Rights laws and authorities. It is also the policy of the DCHC MPO to ensure that no person shall, on the ground of sexual orientation or gender identity, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity.

A copy of the DCHC MPO's Civil Rights Title VI Compliance Report, Policy Statement and Assurances can be found at the DCHC MPO website, specifically at the following link: <http://www.dhcmpo.org/Title VI> or call (919) 560-4366.

### **VIII.A Limited English Proficiency (LEP) Plan**

The DCHC MPO's Limited English Proficiency (LEP) Plan identifies the Limited English Proficient populations in our service area and provides guidelines for MPO staff to help ensure that information and services are accessible to LEP persons. A copy of the DCHC MPO's Limited English Proficiency Plan is in an appendix to this document and can be found at the DCHC MPO website, specifically at the following link: <http://www.dhcmpo.org/LEP> or call (919) 560-4366.



**IX. Review Procedures/Reassessment of PIP**

The Durham-Chapel Hill-Carrboro Metropolitan Planning Organization (MPO) Public Involvement Policy will be reviewed and evaluated on a triennial basis to ensure that the objectives of the plan are being met and that the process provides full and open access to all. A forty-five (45) day public comment period and a public meeting will be held during the triennial review to solicit input on the Public Involvement Policy. A summary highlighting the results of the evaluation review will be prepared. The summary will document the effectiveness of the various public involvement mechanisms and will respond to public comments received. The public comments and the MPO's response will be included in the appendix of the updated Public Involvement Policy.

The MPO will also solicit comments on the effectiveness of the Public Involvement Policy through outreach programs to seek out and consider the needs of those traditionally under-served by existing transportation systems, including environmental justice (low-income & minority), elderly and LEP households.

## **1. Transportation Advisory Committee**

*Transportation Advisory Committee (TAC)* - The Transportation Advisory Committee is the policy and decision-making body for the Durham-Chapel Hill-Carrboro Metropolitan Planning Organization. The TAC is comprised of elected and appointed officials from the City of Durham, the Town of Chapel Hill, the Town of Carrboro, the Town of Hillsborough, Durham County, Orange County, Chatham County and the North Carolina Department of Transportation. The TAC also has advisory (non-voting) members from the Triangle Transit Authority, the Federal Highway Administration and the Research Triangle Foundation of North Carolina. The TAC is responsible for providing opportunities for citizen participation in the transportation planning process.

### **Regular Public Involvement Opportunities**

The TAC holds regular monthly meetings on the 2<sup>nd</sup> Wednesday of every month. These meetings are open to members of the public and, upon request, anyone can be placed on the TAC mailing list. At the beginning of each regular meeting, the TAC provides time to receive public comments as a set part of its agenda.

### **Public Involvement for Specific Planning Items**

For particular planning issues (i.e. plan development & updates, studies, amendments to planning documents, etc.), the TAC will open a public comment period (3-6 weeks depending on the item) and hold a public hearing. The notice for the public comment period and the public hearing are advertised in the major daily newspapers, and other local, minority, or alternative language newspapers, as appropriate, as well as on the public service announcement on Time Warner Cable. Local member jurisdictions are advised to publicize the public comment period/hearing in their local media, as well. The notices will include an announcement that states that persons with disabilities will be accommodated. Special provisions will be made if notified 48 hours in advance (i.e. having available large print documents, audio material, someone proficient in sign language, a translator or other provisions as requested). Both written and oral comments received are compiled by the planning staff and reviewed by the TAC.

### **Response to Public Comment**

The TAC acknowledges public comments in two ways. The TAC may incorporate public comments and the MPO's response, as an appendix, into the specific planning document. Or, depending on the number of comments, the TAC may instruct the planning staff to respond directly by letter. Acknowledging public comments is a

way to let the public know that its comments are being addressed and are part of the public involvement feedback process.

## **2. Transportation Plan**

### **Preamble**

The Transportation Plan public review and participation process is designed to provide early and adequate opportunities for citizens and public officials (including elected officials) to be involved in the Durham-Chapel Hill-Carrboro (DCHC) Transportation Plan development. This public participation program is designed to involve all parties in the early stages of plan development and the subsequent update process. It is also designed to provide gradual progression from the general information (vision setting and formulation of goals, objectives and policies) pertaining to the plan to very specific information regarding alternatives and plan selection. Each public forum or input technique will use information collected at previous "forums" in order to build progression concluding with the adoption of the Transportation Plan.

The entire process will be implemented for a plan update, which commonly involves an evaluation of most highway, transit and non-motorized transportation modes, and therefore requires several years to complete. An appropriate subset of the public involvement elements will be implemented for major and minor revisions, which commonly involve an evaluation of only several projects, and therefore require a process that is much less complex.

### **Purpose of Public Involvement Process**

The purpose of the public involvement policy is to develop and implement strategies to inform and involve citizens in all stages of the development and update of the Transportation Plan.

### **Mission of the Public Participation Process**

Public ownership of the Transportation Plan: the goal of the program is to ensure that policy decisions (at key decision points) will reflect the values, needs, and priorities of those affected by the decisions (i.e. the general public).

### **Objectives**

1. Encourage citizens to take a proactive role in the development of Transportation Plan.
2. Bring a broad cross-section of members of the public into the public policy and transportation planning decision making process.

3. Educate the public and elected officials in order to increase public understanding of both the options and the constraints of transportation alternatives.
4. Determine the public's knowledge of metropolitan transportation system and public values and attitudes concerning transportation.
5. Determine public concerns/perceived impacts of elements of the Transportation Plan.
6. Determine which elements of the Transportation Plan would support or diminish the citizens' desired lifestyle.
7. Establish a channel for an effective feedback process.

**Elements of the Public Involvement Procedure**

The Public Involvement Process for the Transportation Plan consists of a series of innovative public participation techniques, including: transportation related committees of MPO jurisdictions, public service announcements, a newsletter, public meetings, surveys, and the mass media. These techniques will be employed at various stages of the development of a plan update, and as appropriate for major or minor revisions.

**Public Involvement Process**

1. The Durham-Chapel Hill-Carrboro (DCHC) Metropolitan Planning Organization will provide opportunity for early and meaningful public involvement in the development and update of the Transportation Plan. The MPO shall develop a public involvement plan for the development and update of metropolitan transportation plans.
2. Proactive participation techniques will be employed to involve citizens and provide full access to information and technical data. The technique will generally include, but not be limited to: public meetings/hearings; surveys; focus groups; newsletters; public service announcements; charrette; transportation related committees, and mass media.
3. Information dissemination, notification of meeting, publication of proposed plans will be integral elements of the public involvement process.
4. The DCHC MPO will initiate the Transportation Plan update process as required by the Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users (SAFETEAU-LU), the Clean Air Act

Amendments (CAAA) and subsequent federal regulations. Elements of the Transportation Plan, and/or amendments will meet all current Federal Highway Administration (FHWA), Federal Transit Administration (FTA), Environmental Protection Agency (EPA), and the North Carolina Department of Transportation (NCDOT) requirements.

5. A draft work program and schedule for the Transportation Plan update process will be developed by the TCC and made available for public review. The work program will detail the strategy for the Transportation Plan update process including work elements and a tentative schedule.
6. Copies of the draft work program and schedule will be distributed to the member jurisdictions, citizen groups and agencies, and will also be placed in the local libraries. Notification of the draft Transportation Plan work program will be provided in a major daily newspaper, and other local, minority, or alternative language newspapers, as appropriate.

The notification will inform the public of the availability of the draft work plan for review and comment, where to send written comments, and addresses and phone numbers of contact persons. The notices also will include an announcement that states that persons with disabilities will be accommodated. Special provisions will be made if notified 48 hours in advance (i.e. having available large print documents, audio material, someone proficient in sign language, a translator, or other provisions, as requested). Additionally, the notice will inform the public that copies of the draft Transportation Plan work program are available for review at local libraries, and offices of member agencies.

7. The public comment period will be for a minimum six-week (42-day) public comment period, effective from the date of the public notice publication. Written comments will be received during the comment period and will be directed to the Lead Planning Agency (LPA). The Lead Planning Agency's contact person, phone number and e-mail address will be included in the public notice.
8. Public meeting(s)/workshops will be held to: formulate a vision for the Transportation Plan development; provide the public background information on the metropolitan transportation system and other issues as well as the proposed framework of the Transportation Plan update process; and receive citizen input.
9. Public meetings (forums) designed to solicit public comment will be held at various locations around the metropolitan area to encourage the greatest public participation. Public meetings will be held at a location which is

accessible to persons with disabilities and which is located on a transit route.

10. The TCC will assemble all comments and forward comments to the Transportation Advisory Committee (TAC). The TAC may choose to hold a public hearing before adopting the strategy and work program for the Transportation Plan. Comments regarding the draft strategy will be considered and addressed in adopting the final program.
11. Any significant revision and amendment to the Transportation Plan work program will be subject to the public review process as outlined above.
12. The public participation component of the Transportation Plan will generally follow the same citizen input and review as outlined in aforementioned PIP Policy Framework. Public input will be solicited to review and comment on any major Transportation Plan amendment proposal as well as analyses conducted as part of the amendment request. Adequate opportunity will be provided for public involvement in the amendment of the Transportation Plan, and any significant revisions to the Transportation Plan will also be subject to public comment period as described in # 7 of this policy.
13. The DCHC MPO will consult with federal and State agencies responsible for land management, natural resources, environmental protection, conservation, historic preservation and economic development in the development of metropolitan transportation plans and LRTP air quality conformity determination.
14. The DCHC MPO will employ visualization techniques in disseminating information relating MPO metropolitan transportation plans. Visualization tools is intended to aid the public and decision makers visualize and interact with transportation plans and projects, alternatives, large data sets and land-use information more effectively. Visualization techniques will vary, and could range from GIS displays, mappings and land-use/transportation scenario planning tools to information technology, such as three-dimensional digital models, web-based information systems, transportation and urban simulation, and Internet communications.
15. The DCHC MPO will make technical and other information available to the public using the MPO web site and other electronically accessible formats and means as practicable. The web site shall also include copies of appropriate reports, plans, maps and visualization information pertaining to the MTP.
16. The DCHC MPO will endeavor to involve the public at key decision points of the Transportation Plan development. Decision points are those stages where

the TAC will be required to endorse or take action on particular work elements. These include, but are not limited to:

- Formulation of vision, goals and objectives;
  - Policy development;
  - Review and approval of socio-economic and demographic projections;
  - Review of land use information and scenarios;
  - Review of modeling process;
  - Review and determination of transportation deficiencies;
  - Identification of transportation (facility) needs;
  - Evaluation of alternatives and selection of preferred option; and,
  - Plan recommendation and adoption;
17. The process for developing, updating, and amending the Transportation Plan will generally follow the sequence described above.



### **3. Transportation Improvement Program**

#### **Overview**

The Transportation Improvement Program (TIP) is the document that describes the funding and scheduling of transportation improvement projects (highway, bicycle, pedestrian, and transit capital and operating assistance) using State and federal funds. The TIP serves as the project selection document for transportation projects and, therefore, is the implementation mechanism by which the objectives of the Transportation Plan are reached. The Safe, Accountable, and Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) and preceding legislation, TEA-21 and ISTEA mandate an opportunity for public review of the TIP. The following is the proposed public involvement procedure for the Durham-Chapel Hill-Carrboro Transportation Improvement Program.

#### **Introduction**

The Durham-Chapel Hill-Carrboro (DCHC) Metropolitan Planning Organization (MPO) will prepare a Transportation Improvement Program, which is consistent with the requirements of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: a Legacy for Users (SAFETEA-LU), and any implementing federal regulations. The TIP will be developed based on: 1) revenue estimates provided by the North Carolina Department of Transportation (NCDOT); and, 2) the DCHC MPO Regional Priority List. The public input element of the Transportation Improvement Program is presented as follows:

#### **Public Involvement Process**

1. The DCHC Technical Coordinating Committee (TCC) will develop a draft Regional Priority List from the Local Project Priorities of the MPO jurisdictions.
2. The Regional Priority List will be published for a minimum three-week (21-day) public comment period and the notice will be published by the Lead Planning Agency (LPA) in a major daily newspaper, and other local, minority, or alternative language newspapers, as appropriate.

The notices for the public comment period and the public hearing will include an announcement that states that persons with disabilities will be accommodated. Special provisions will be made if notified 48 hours in advance (i.e. having available large print documents, audio material, someone proficient in sign language, a translator or other provisions as requested). The Regional Priority List will be on file in the City of Durham Department of Transportation, Town of Chapel Hill Planning

Department, Town of Carrboro Planning Department, Town of Hillsborough Planning Department, Counties of Durham, Orange, Chatham Planning Departments, the Triangle Transit Authority and the county public libraries for public review and comment.

3. The Transportation Advisory Committee (TAC) will hold a public hearing on the draft Regional Priority List. The public hearing will be held at a location which is accessible to persons with disabilities and which is located on a transit route. The TAC will approve a final Regional Priority List after considering the public comments received.
4. The DCHC MPO Technical Coordinating Committee will develop a draft TIP from the approved Regional Priority List and from revenue estimates provided by the North Carolina Department of Transportation. The TCC will forward the draft TIP to the Transportation Advisory Committee. The Transportation Advisory Committee will publish the draft TIP for public review and comment.
5. Copies of a draft TIP will be distributed to TAC members and the transportation related committees of MPO member jurisdictions. Each jurisdiction will also have copies available for public review. The draft TIP will follow the same notification procedures as outlined above for the Regional Priority List.
6. The public comments will be assembled and presented to the Durham-Chapel Hill Carrboro TAC. The TAC will hold a public hearing on the draft TIP. The public hearing will be held at a location which is accessible to persons with disabilities and which is located on a transit route. Public comments will be addressed and considered in the adoption of the TIP.
7. The DCHC MPO, being a maintenance area for air quality will provide additional opportunity for public comment on the revision of the draft TIP (if the final TIP is significantly different and/or raises new material issues).
8. The process for updating and approving the Transportation Improvement Program will follow the sequence and procedure as described in the aforementioned PIP framework.
9. Amendments to TIP will be available for public review and comment, if they make a substantial change to the TIP. A substantial change is classified as the addition or deletion of a project with an implementation cost exceeding \$1 million. Public comment on project additions or

deletions of less than \$1 million may be sought at the discretion of the TAC by majority vote. As long as a project's description, scope or expected environmental impact have not materially changed, the TAC may approve changes to project funding without a separate public meeting.

10. Written public comments and their responses will be published as an appendix to the final TIP.

## **4. Air Quality Conformity Determination**

### **Introduction**

The Durham-Chapel Hill-Carrboro (DCHC) Metropolitan Planning Organization (MPO) is required to make a conformity determination on its Transportation Plan. The Transportation Improvement Program is a subset of the Transportation Plan and is therefore covered by the conformity analysis.

### **Public Involvement Procedure for the Air Quality Determination**

1. The DCHC MPO in conjunction and cooperation with the air quality inter-agency partners will prepare an air quality conformity analysis for the Durham-Chapel Hill-Carrboro metropolitan planning area boundary. The DCHC Technical Coordinating Committee will provide comments to the Air Quality Inter-Agency Partners during the interagency comment period.
2. The DCHC Technical Coordinating Committee will receive the final draft Conformity Report, review it, and forward it to the Transportation Advisory Committee (TAC). The Transportation Advisory Committee will then publish the draft Conformity Report for public review and comment.
3. Copies of a draft Conformity Report will be distributed to TAC members. Each jurisdiction will also have copies available for public review. Notices regarding the draft Air Quality Conformity Report will be advertised by the Lead Planning Agency in a major daily newspaper, and other local, minority, or alternative language newspapers, as appropriate.

Notices may also be published in member jurisdictions' local newspapers by the member agencies' staff. The notice will inform the public that a draft Conformity Report has been published by the DCHC MPO and that copies are available for public review and comment at local MPO jurisdictions and the county libraries. The notices will include an announcement that states that persons with disabilities will be accommodated. Special provisions will be made if notified 48 hours in advance (i.e. having available large print documents, audio material, someone proficient in sign language, a translator or other provisions as requested).

4. The public review period will be for a minimum one-month (30-day) period, effective from the date of public notice publication. Written comment will be received during the public review period, and will be

directed to the LPA. The Lead Agency's contact person, phone number and e-mail will be included in the public notice.

5. The public comments will be assembled and presented to the Durham-Chapel Hill Carrboro TAC. The TAC will hold a public hearing on the draft Air Quality Conformity Report. The public hearing will be held at a location which is accessible to persons with disabilities and which is located on a transit route. Public comments will be addressed and considered in the Air Quality Conformity Determination.
6. The DCHC MPO, being a maintenance area will provide additional opportunity for public comment on any revisions to the draft Conformity Report (if the final Conformity Report is significantly different than the one which was made available for public comment by the MPO, and raises new material issues, which interested parties could not reasonably have foreseen for the public review notifications).
7. The Air Quality Determination is valid for four years, unless changes are made to the Transportation Plan (or TIP) which would have an impact on the air quality analysis. If such changes are made, a new analysis and public involvement procedure needs to be conducted as outlined above.
8. The process for updating and approving the MTP Air Quality Conformity Determination shall generally follow the principles as described in the PIP Framework of this document.

## **5. Major Investment Studies**

### **Introduction**

The major investment study (MIS) supports decisions on significant federally-funded transportation investments along a corridor or subarea level of the metropolitan area. The MIS identifies all reasonable strategies for the study area in order to meet its transportation demands and relieve any transportation problems. It is a detailed analysis designed to provide local decision makers with more comprehensive corridor level technical analysis early in the transportation planning process. Although an MIS is no longer required by SAFETEA-LU (MIS was required by TEA-21), federal regulations encourage the integration of an MIS with the MPO planning process.

### **Public Involvement Process**

The scope of a major investment study for the Durham-Chapel Hill-Carrboro will be determined on a project-by-project basis. Therefore, the MPO will choose the appropriate public involvement initiatives to meet the goals of the MIS. The public involvement techniques that may be used are public informational meetings, newsletters, media relations and the formation of an advisory committee.

These techniques will be used through the development and approval of the MIS. The MIS will also be subject to the public procedures of the Transportation Advisory Committee and will be consistent with the MPO's ADA provisions.

## **6. Unified Planning Work Program**

### **Introduction**

The Safe, Accountable, and Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) requires that each Metropolitan Planning Organization (MPO) prepare an annual work program known as the Unified Planning Work Program (UPWP). The UPWP must identify the MPO planning tasks to be undertaken with the use of federal transportation funds, including highway and transit.

### **Purpose**

The purpose of public involvement in the UPWP process is to keep the public apprised of and to receive input on the planning activities to be undertaken by the Metropolitan Planning Organization.

### **Public Involvement Process**

1. The Distribution Formula for FTA Section 5307 funds for the appropriate federal fiscal year is submitted to the Transportation Advisory Committee (TAC) for approval. The TAC meetings are open to the public and comments on the Distribution Formula may be received at this time.
2. The Lead Planning Agency distributes FHWA Section 104(f) planning funds based on the TAC-approved formula.
3. The local jurisdictions will prepare a list of tasks and funding for the federal fiscal year according to the approved Distribution Formula. These lists are submitted to the Lead Planning Agency for compilation into a draft Unified Planning Work Program.
4. The draft Unified Planning Work Program is reviewed by the Technical Coordinating Committee (TCC). The TCC meetings are open to the public. The TCC then endorses a draft UPWP and forwards the document to the TAC for release for a minimum 21-day comment period.
5. The draft UPWP is then reviewed by the TAC. The TAC releases a draft UPWP for a 21-day comment period. The draft is sent to the NCDOT Public Transportation Division for comments.
6. The final UPWP comes back again to the TAC for approval. Upon TAC approval, the UPWP is then forwarded on to the State and FHWA/FTA.

7. The process for updating and approving the annual UPWP shall generally follow the principles as described in the PIP Framework of this document.



## **7. Americans with Disabilities Act (ADA) Provisions**

### **Durham-Chapel Hill-Carrboro Metropolitan Planning Organization**

- All notices for planning activities of the Metropolitan Planning Organization will include an announcement that states that persons with disabilities will be accommodated. Special provisions will be made if notified 48 hours in advance (i.e. having available large print documents, audio material, someone proficient in sign language, a translator or other provisions requested).
- Notices for the public comment period and the public hearing will be advertised in the area's major daily newspaper, and other local, minority, or alternative language newspapers, as appropriate, as well as on the public service announcement on Time Warner Cable. Local member jurisdictions are advised to publicize the public comment period/hearing in their local media as well. Public meetings will be held in locations accessible to persons with disabilities and will be located near or on a transit route.

### **The Durham Area Transit Authority (DATA)**

- There is a Durham Area Transit Authority (DATA) Access Advisory Committee for Durham which serves as an ongoing mechanism for public participation. The Committee is composed of paratransit users, persons with disabilities who are not paratransit users and representatives from agencies and employers who work with disabled persons.
- Committee meetings are held bi-monthly and are advertised by notices on paratransit vehicles, in the City Calendar, and notices sent to Radio Reading Services.
- The written notices are printed in large (15 point) font.
- For policy changes, public forums and public hearings are held. Announcements are advertised through public notices in local newspapers, public service announcements on local radio and television stations, the Radio Reading Service and large print notices posted in the paratransit vehicles.
- DATA has updated its Paratransit Plan and is in compliance with the ADA requirements. Copies of the Paratransit Plan are available in large print and on audio cassette.

**Chapel Hill Transit**

- The Chapel Hill and Carrboro Transportation Boards serve as an ongoing mechanism for public participation.
- For policy changes, the Transportation Boards hold public hearings. Notices are published in the local newspapers.
- Chapel Hill Transit has updated its Paratransit Plan and is in compliance with the ADA requirements. Copies of the Paratransit Plan are available in large print and on audio cassette.

# Durham-Chapel Hill-Carrboro Metropolitan Planning Organization

## **LIMITED ENGLISH PROFICIENCY PLAN- LEP**

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## Overview

A Limited English Proficient person is one who does not speak English as their primary language and who has a limited ability to read, speak, write, or understand English. The Durham-Chapel Hill-Carrboro Metropolitan Planning Organization (DCHC MPO) Limited English Proficiency (LEP) Plan is part of a comprehensive effort to provide language assistance for LEP persons seeking meaningful access to DCHC MPO plans, programs, and activities as required by Executive Order 13166.

The plan details procedures on how to identify a person who may need language assistance, the ways in which assistance may be provided, and guidelines to notify LEP persons that assistance is available. In developing this LEP Plan, the DCHC MPO staff conducted a US Department of Transportation (USDOT) Four-Factor LEP analysis, which considered the following:

1. The number or proportion of LEP persons eligible to be served or likely to be encountered by DCHC MPO programs, activities, or services;
2. The frequency with which LEP individuals come in contact with DCHC MPO programs, activities, or services;
3. The nature and importance of the program, activity or service provided by the DCHCMPO to the LEP population; and
4. The resources available to the DCHC MPO and overall cost to provide LEP assistance.

For more information about this plan, please contact the DCHCMPO at (919) 560-4366 or [comments@dchcmpo.org](mailto:comments@dchcmpo.org).

## 1 Background

A Limited English Proficiency person is one who does not speak English as their primary language and who has a limited ability to read, speak, write, or understand English. The purpose of this Limited English Proficiency Plan is to outline the responsibilities of the Durham-Chapel Hill-Carrboro Metropolitan Planning Organization (DCHC MPO) in regards to Limited English Proficient (LEP) persons and establish a process for providing assistance to LEP persons for DCHC MPO programs, activities, and services pursuant to Title VI of the Civil Rights Act of 1964 and Executive Order 13166.

### **Title VI of the Civil Rights Act of 1964**

*"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."*

## 2 Executive Order 13166

Different treatment based upon a person's inability to speak, read, write, or understand English may be a type of national origin discrimination. Executive Order 13166 *"Improving Access to Services for Persons With Limited English Proficiency,"* directs each Federal agency that is subject to the requirements of Title VI of the Civil Rights Act of 1964 to publish guidance for its respective recipients and sub-recipients clarifying that obligation. The U.S. Department of Transportation (USDOT) published policy guidance on December 14, 2005 to clarify the responsibilities of recipients of Federal financial assistance from the USDOT.

### 3 Summary of DCHC MPO LEP Plan & Factor Analysis

DCHC MPO has developed this Limited English Proficiency Plan (LEP) to provide language assistance for LEP persons seeking meaningful access to DCHC MPO programs as required by Executive Order 13166 and USDOT’s policy guidance. Essentially, the MPO’s Limited English Proficiency Plan (LEP) is intended to help identify reasonable steps to provide language assistance for LEP persons seeking meaningful access to the transit system’s services as required by Executive Order 13166. **A Limited English Proficiency person is one who does not speak English as their primary language and who has a limited ability to read, speak, write, or understand English.** This plan details procedures on how to identify a person who may need language assistance, the ways in which assistance may be provided, and guidelines to notify LEP persons that assistance is available. In developing the DCHC MPO LEP Plan, the DCHC MPO staff undertook a USDOT Four-Factor LEP analysis, which considers the following:

1. The number or proportion of LEP persons eligible to be served or likely to be encountered by DCHC MPO programs, activities, or services.
2. The frequency with which LEP individuals come in contact with DCHC MPO programs, activities, or services;
3. The nature and importance of the program, activity or service provided by the DCHC MPO to the LEP population; and
4. The resources available to the DCHC MPO and overall cost to provide LEP assistance.

#### **FACTOR 1: Number or proportion of LEP persons eligible to be served or likely to be encountered by DCHC MPO programs, activities, or services.**

In order to determine the number of LEP persons, the DCHC MPO collected analyzed various data from the US Census Bureau. This data was used to evaluate whether certain language groups met the Safe Harbor clause of the LEP guidance, whether a language LEP group exceeds 5% of the regional population, or have a minimum threshold of 1,000 LEP persons in a certain language.

Using the US 2010 CENSUS and American Community Survey (ACS) 2005-2009, the LEP population was ascertained. Based on the population 5 years and older, 0.81% of the DCHC MPO (3 counties, Durham, Orange and Chatham) population is deemed an LEP person, i.e. persons with limited English proficiency. The largest language subpopulation within the LEP population was that of Spanish, which constitutes about 86% of the LEP population. The remaining LEP population that did not speak English well or Spanish, were not significant and very miniscule therefore collapse as “other.” The MPO examined the 2010 U.S. Census Bureau's profile for the Counties within the DCHC MPO. The following tables, charts, and maps display this information.

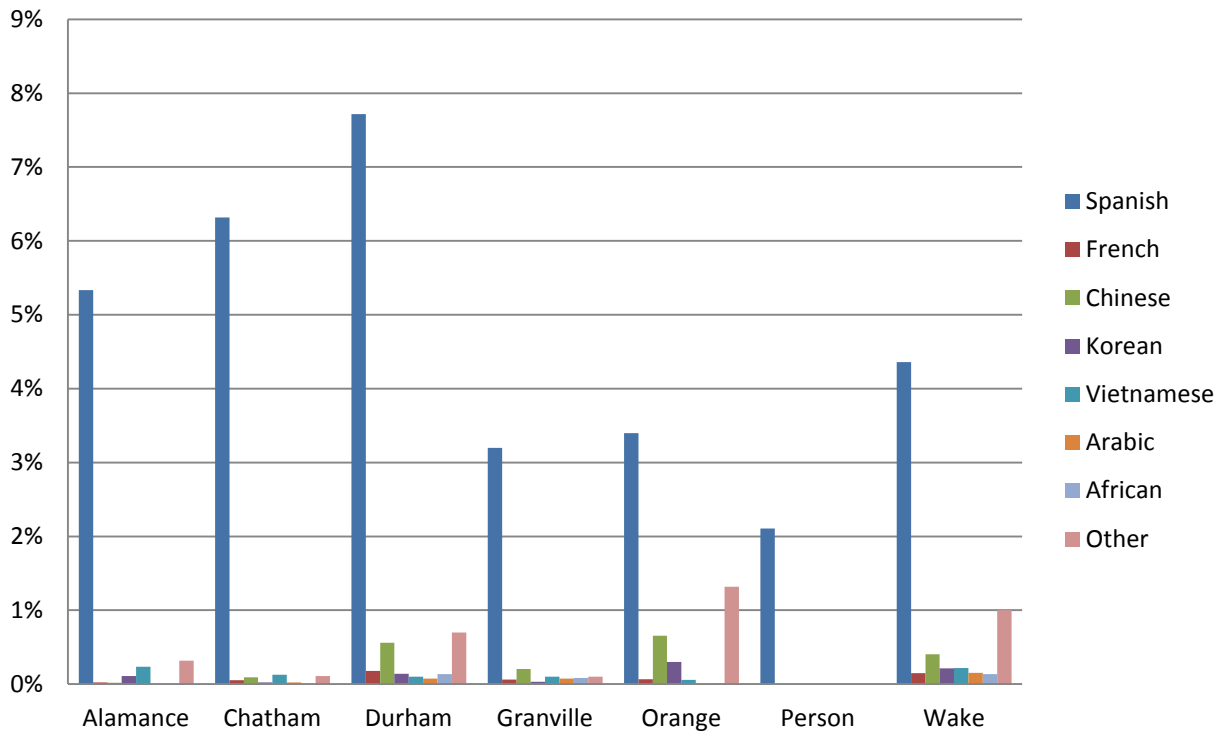
Limited English Proficiency Population by County

County	Total Pop	Total LEP	Spanish	French	Chinese	Korean	Vietnamese	Arabic	African	Other
Chatham	57464	3872	3629	30	52	13	74	12	0	62
Durham	239459	22993	18483	432	1340	333	236	177	320	1672
Orange	122668	7125	4168	80	806	368	69	4	14	1616

Limited English Proficiency by Language, as % of total Population

County	Spanish	French	Chinese	Korean	Vietnamese	Arabic	African	Other
Chatham	6.32%	0.05%	0.09%	0.02%	0.13%	0.02%	0.00%	0.11%
Durham	7.72%	0.18%	0.56%	0.14%	0.10%	0.07%	0.13%	0.70%
Orange	3.40%	0.07%	0.66%	0.30%	0.06%	0.00%	0.01%	1.32%

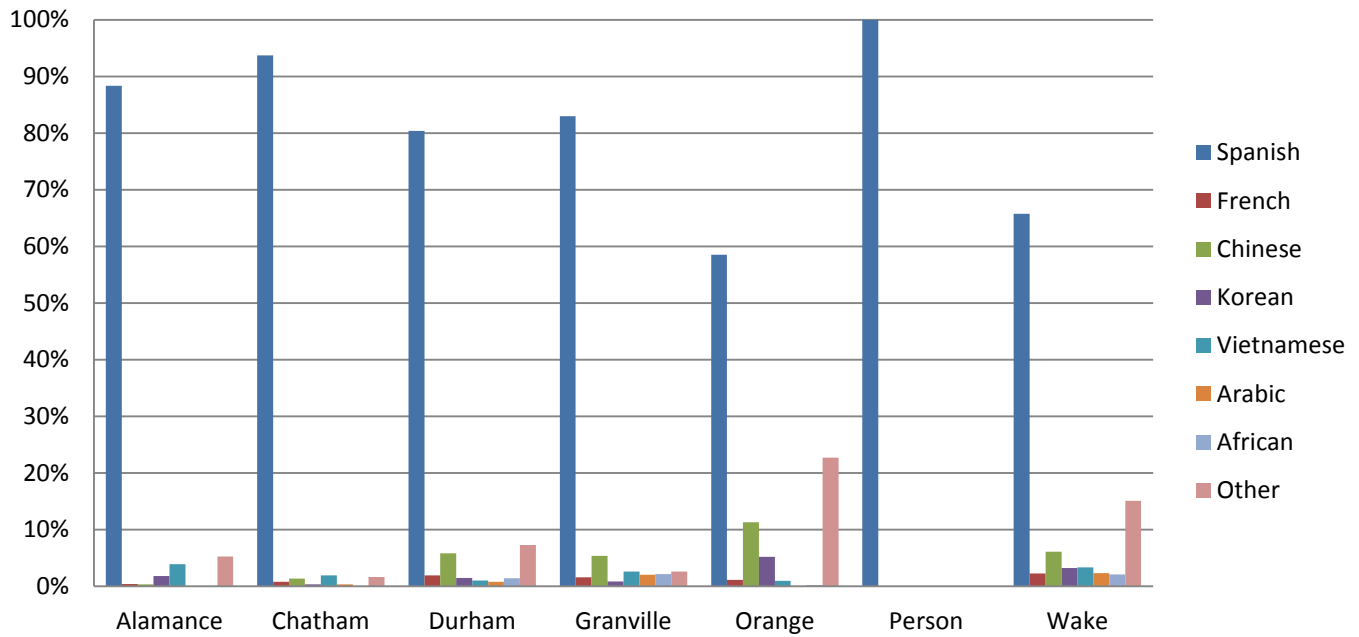
**Limited English Proficiency, as % of Total Population**



Limited English Proficiency by Language, as % of LEP Population

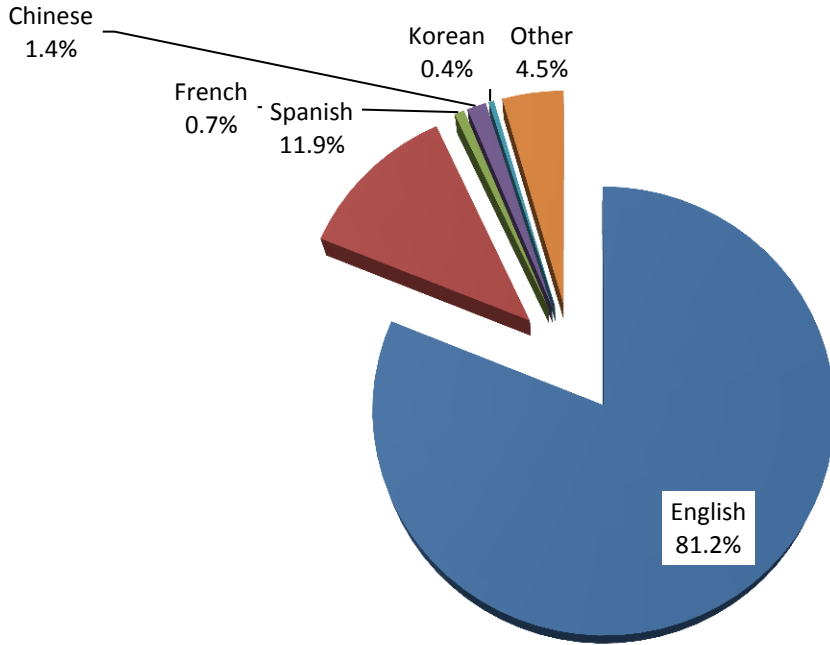
County	Spanish	French	Chinese	Korean	Vietnamese	Arabic	African	Other
Chatham	93.72%	0.77%	1.34%	0.34%	1.91%	0.31%	0.00%	1.60%
Durham	80.39%	1.88%	5.83%	1.45%	1.03%	0.77%	1.39%	7.27%
Orange	58.50%	1.12%	11.31%	5.16%	0.97%	0.06%	0.20%	22.68%

## Limited English Proficiency, as % of Total Limited English Proficiency Population

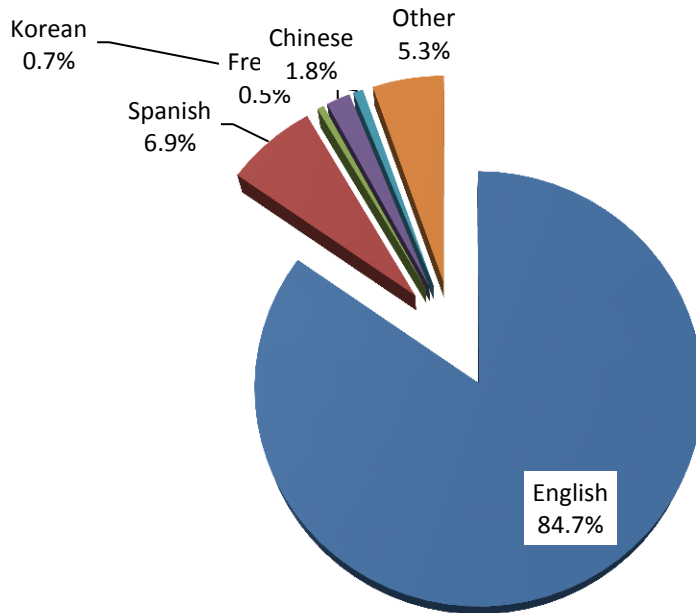


Demographic Profile of LEP Population

Languages Spoken at Home in Durham County

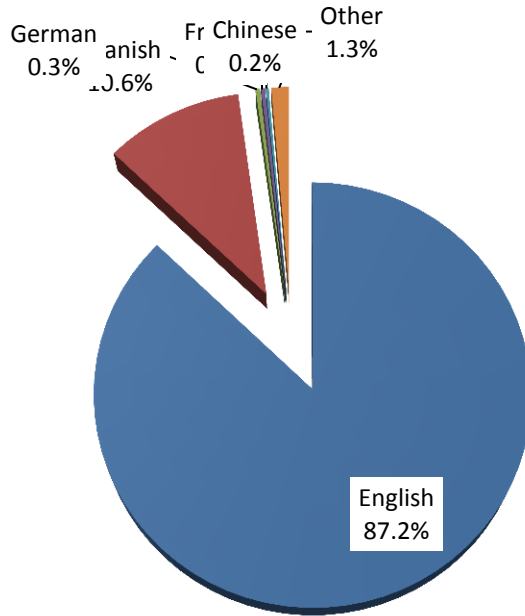


Languages Spoken at Home in Orange County

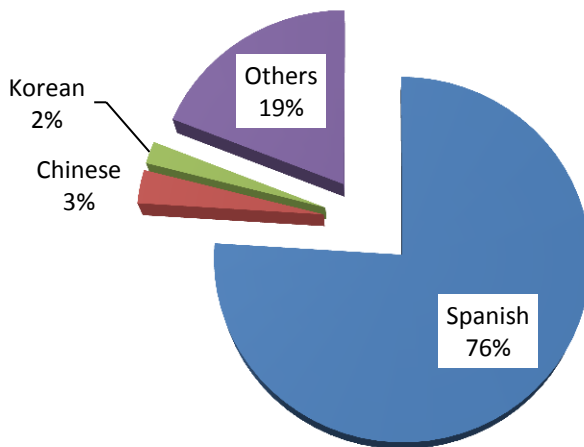




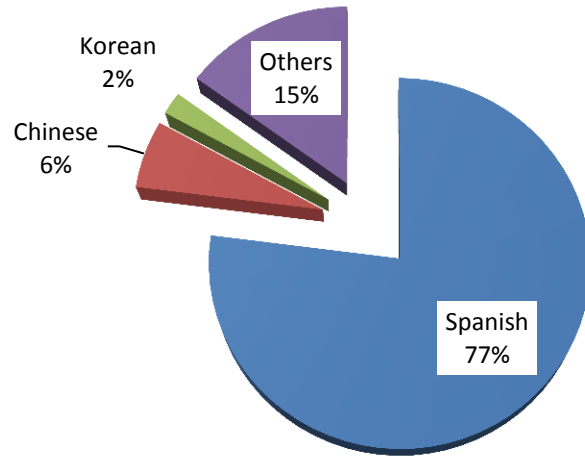
## Languages Spoken at Home in Chatham County



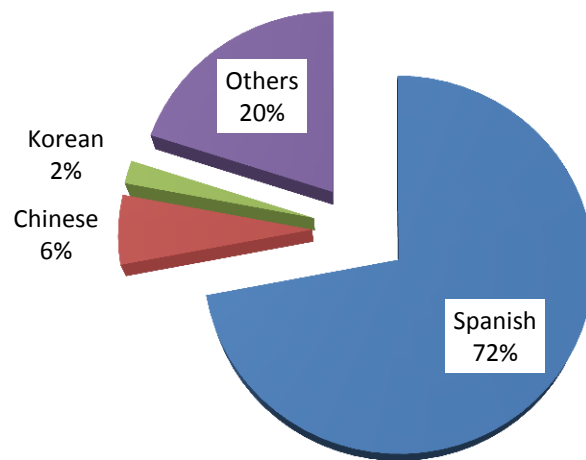
## LEP Speakers in North Carolina by Language Spoken at Home



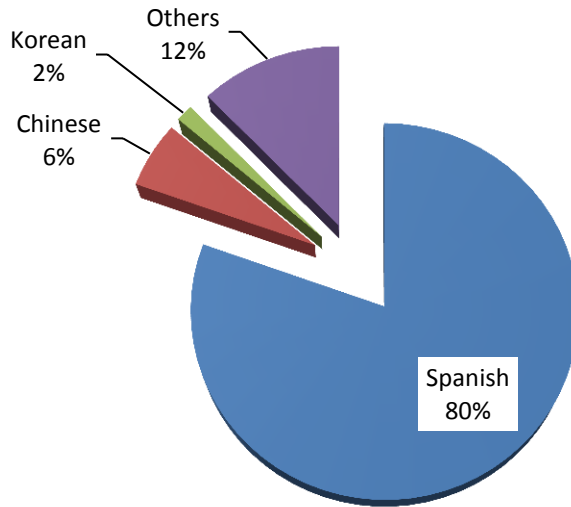
### LEP Speakers in DCHC MPO Region by Language Spoken at Home



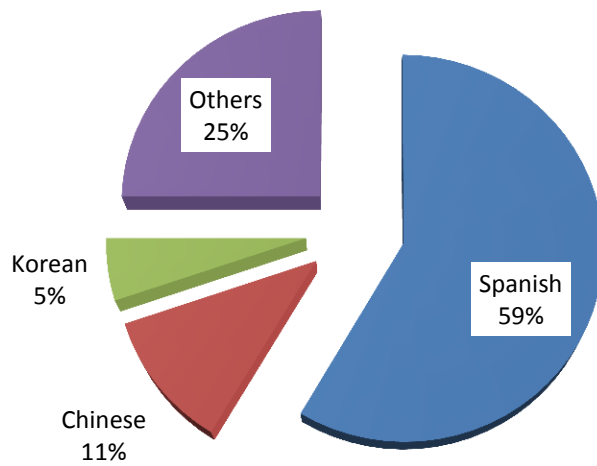
### LEP Speakers in Triangle Region by Language Spoken at Home



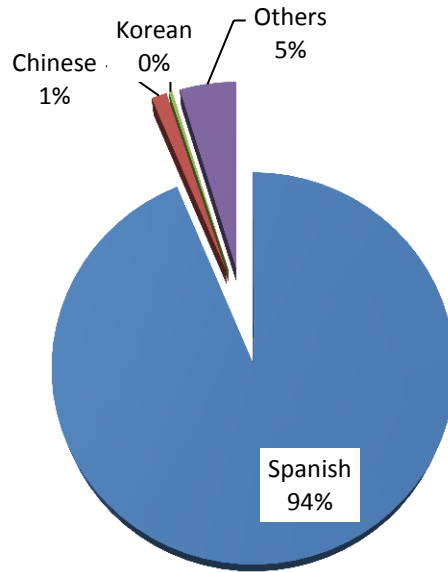
## LEP Speakers in Durham County by Language Spoken at Home



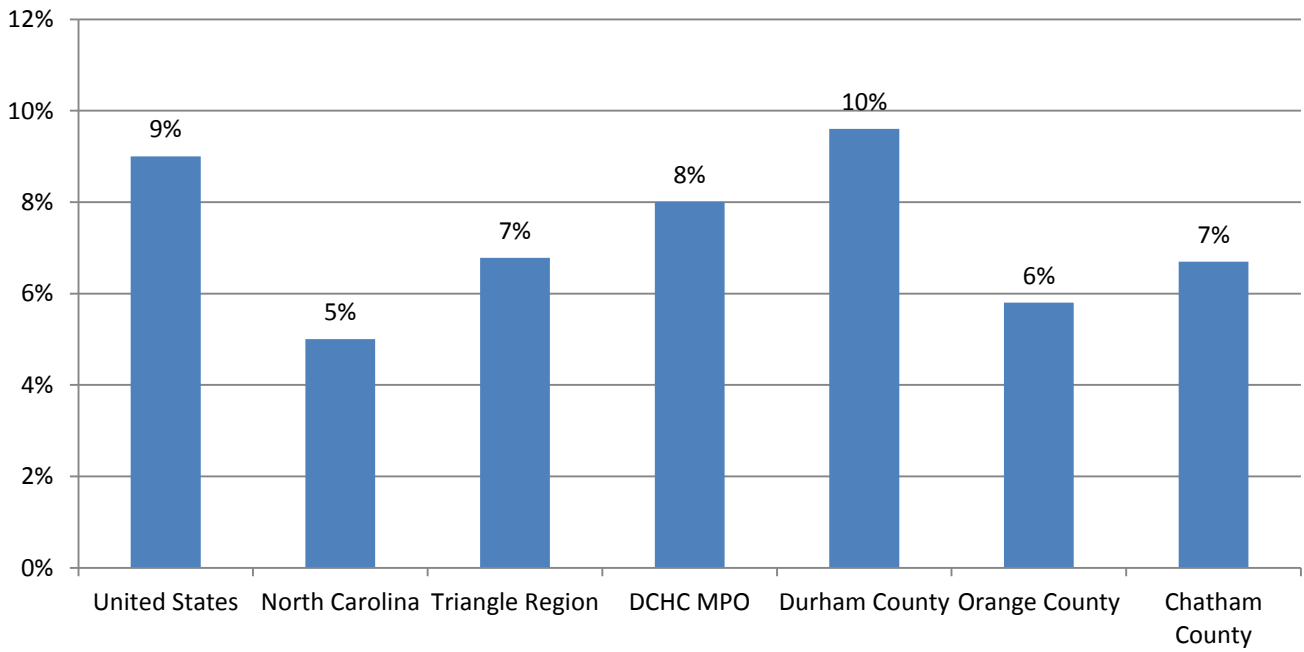
## LEP Speakers in Orange County by Language Spoken at Home



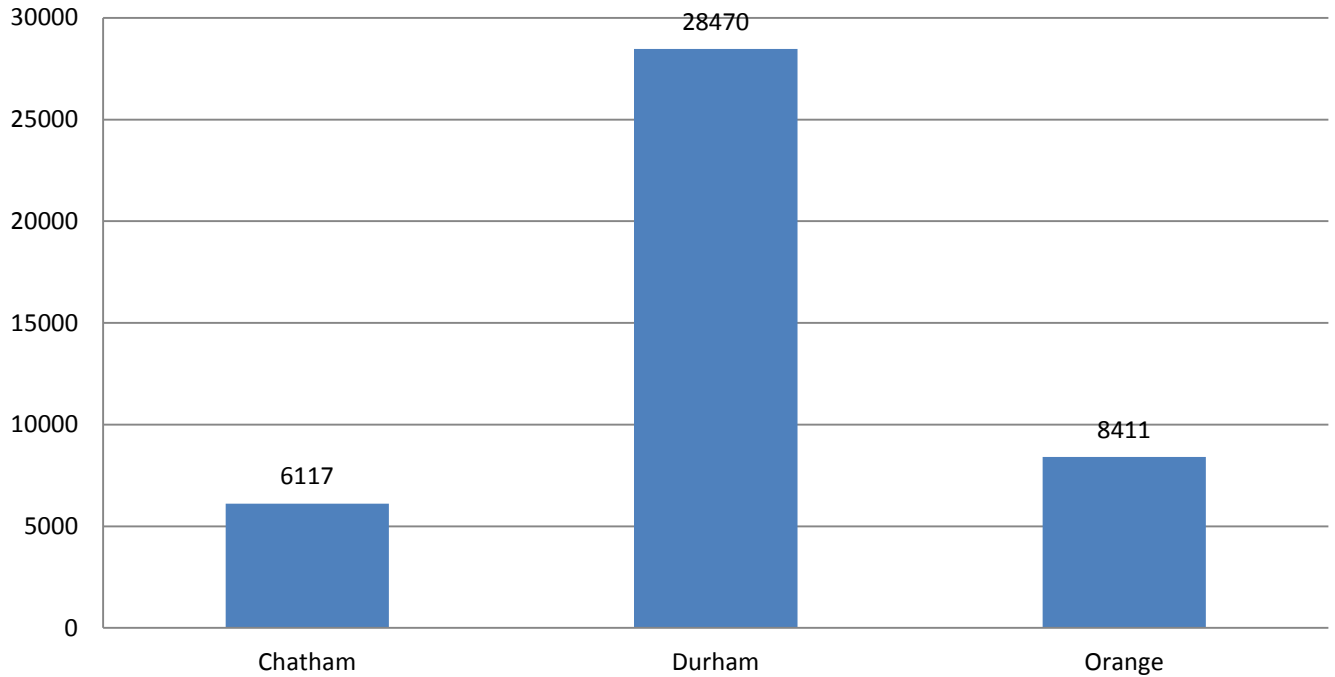
## LEP Speakers in Chatham County by Language Spoken at Home



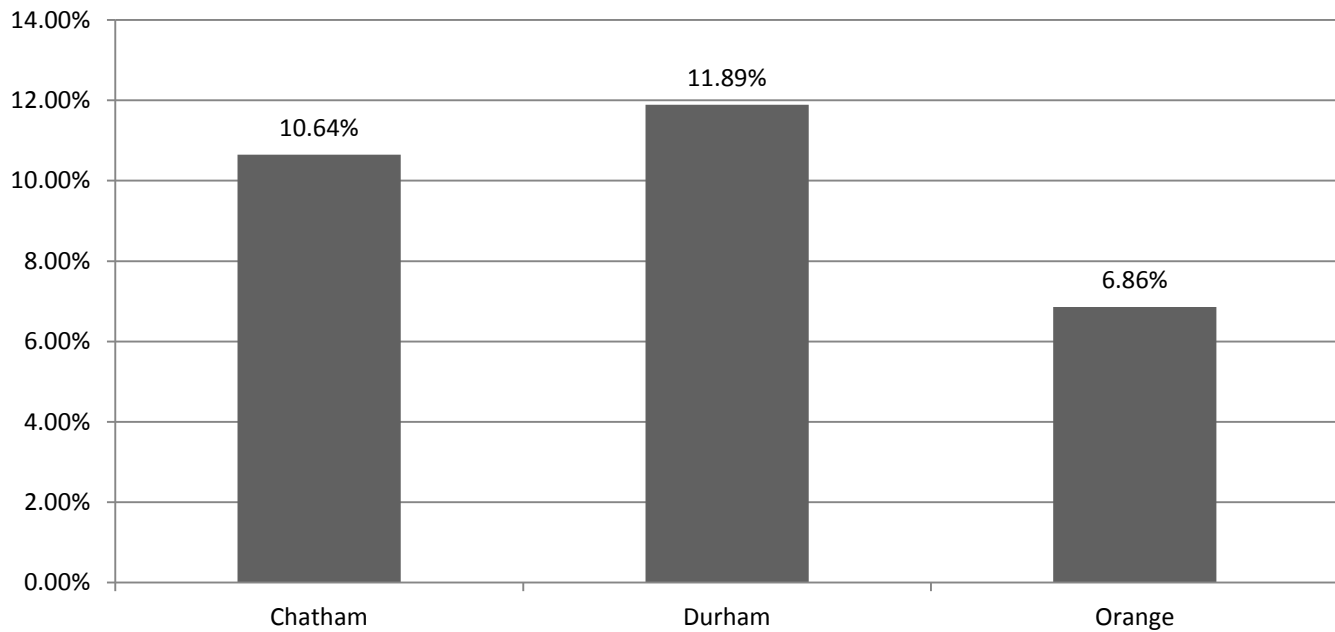
## Share of LEP Speakers



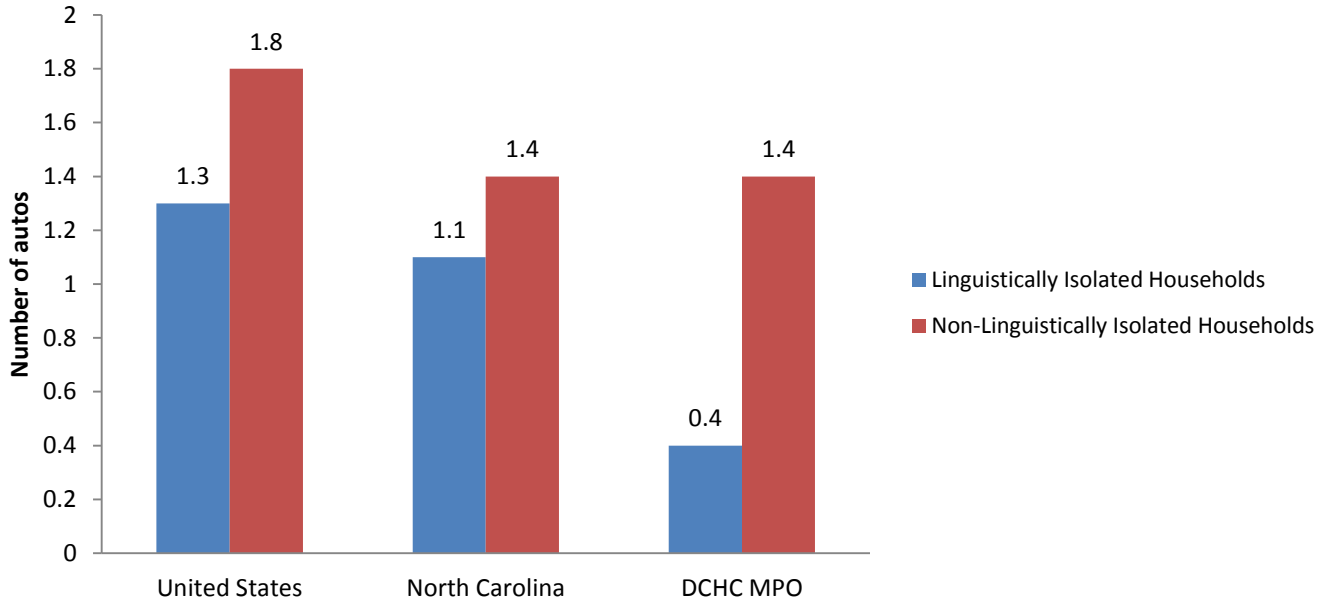
### Number People who Speak Spanish at Home, by County



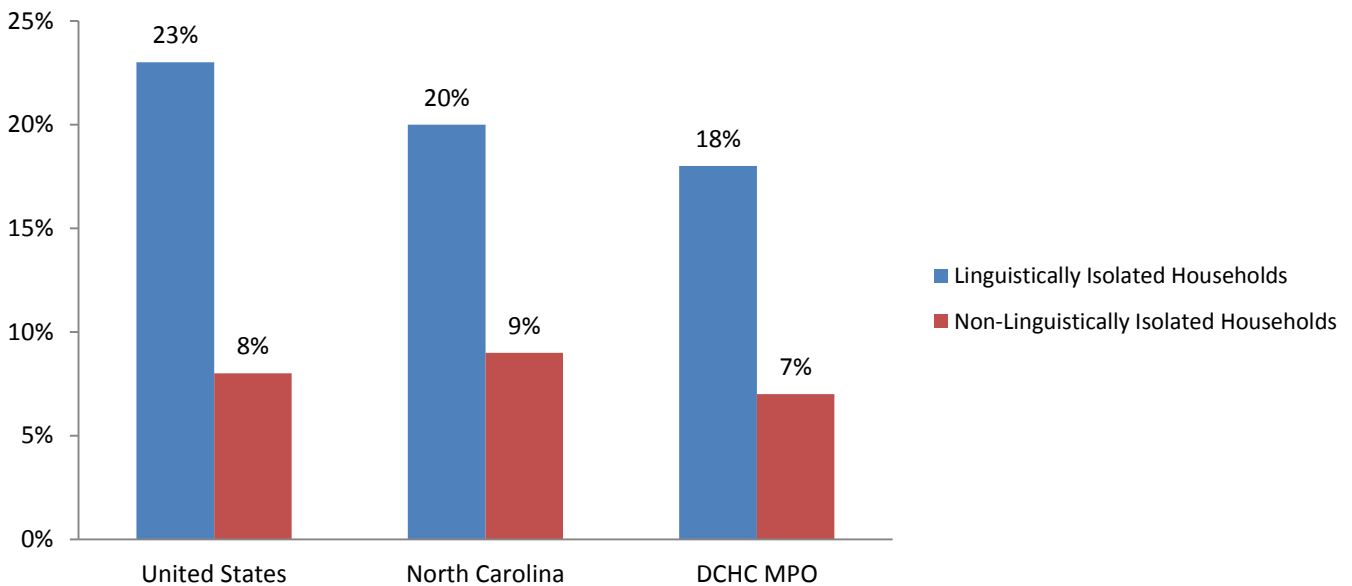
### Percent of Population that Speaks Spanish at Home, by County



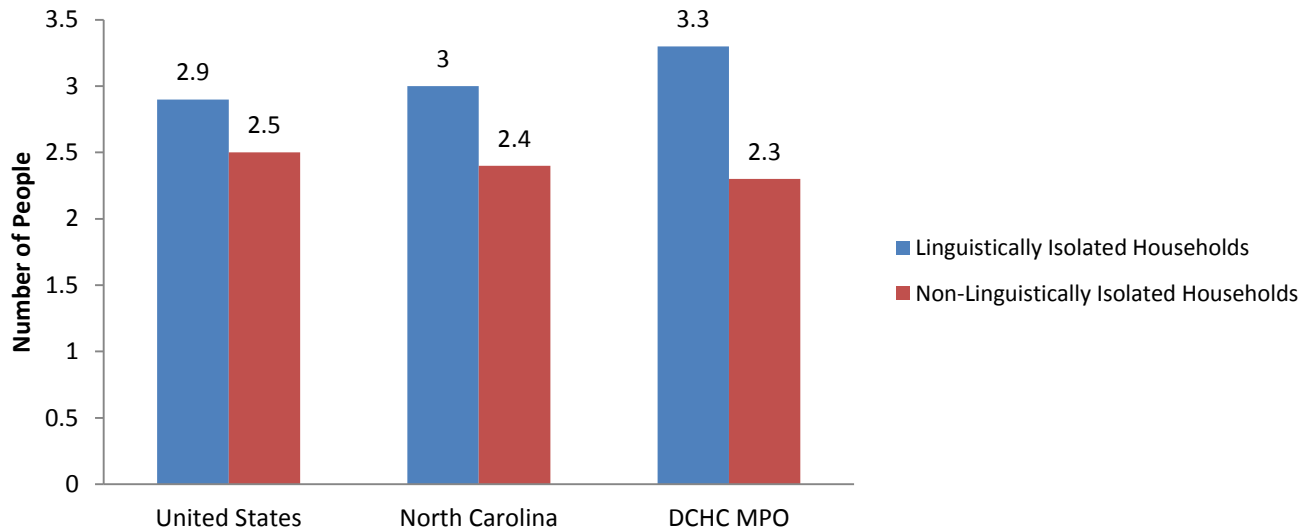
## Mean Automobiles per Household for Linguistically Isolated Households



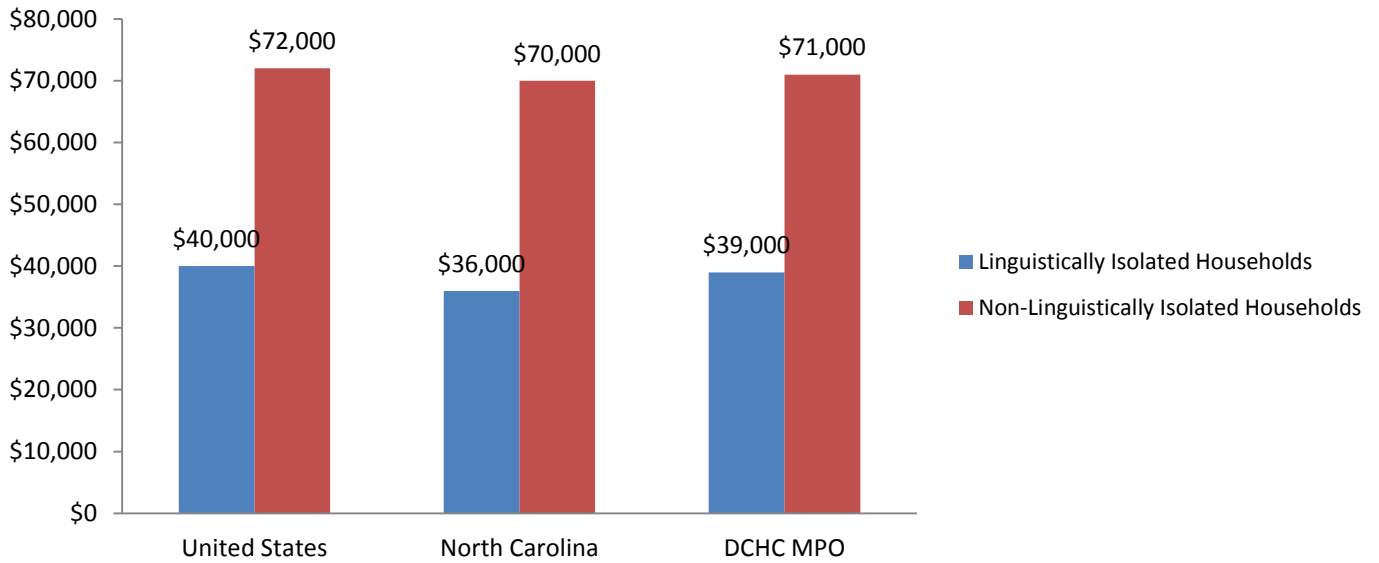
## Share of Households with Zero Automobiles for Linguistically Isolated Households



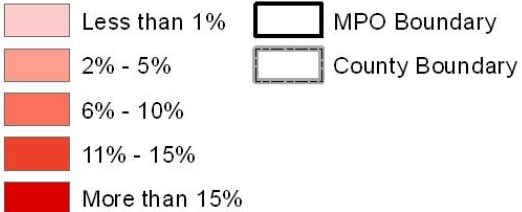
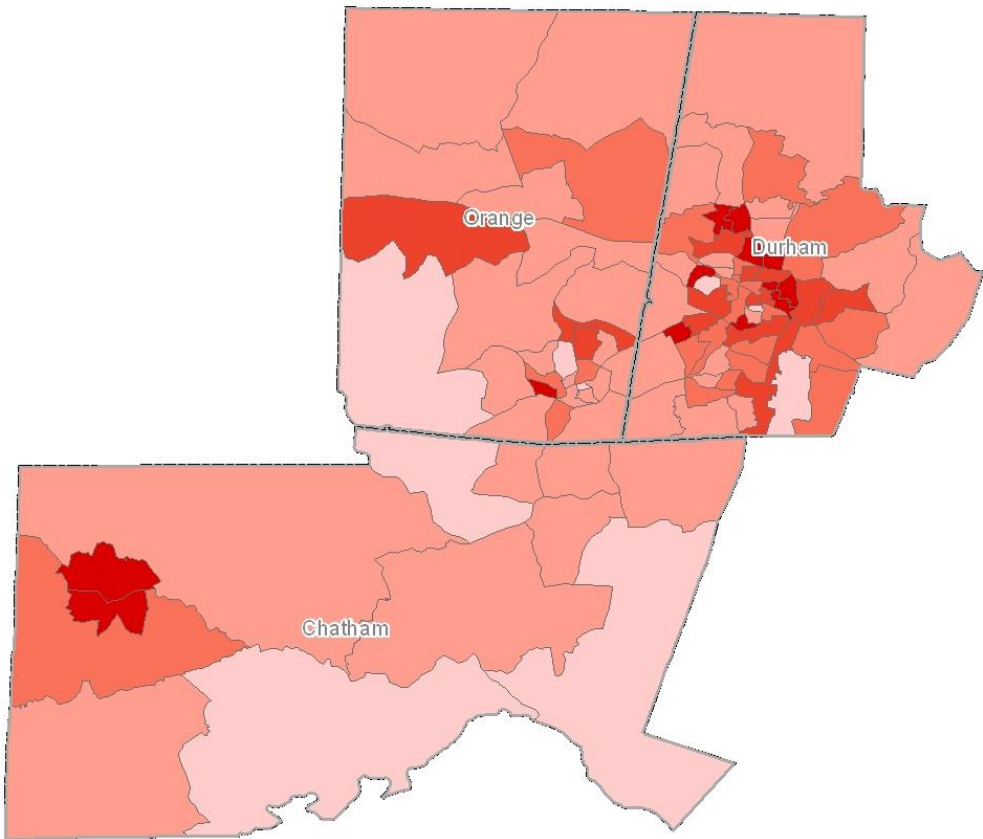
## Average Household Size for Linguistically Isolated Households



## Mean Household Income for Linguistically Isolated Households



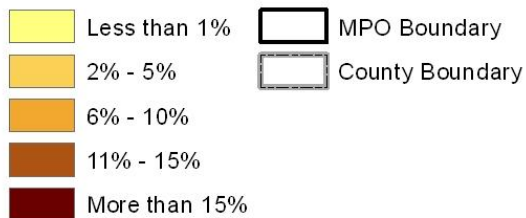
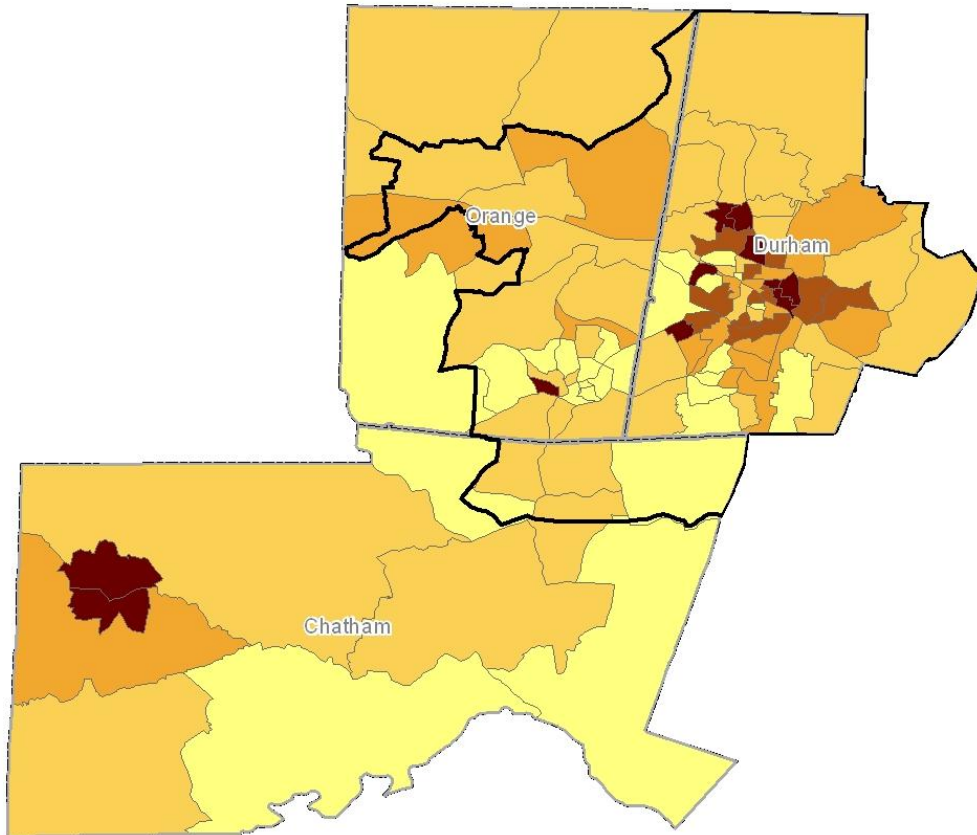
# Percent of Census Tract Population with Limited English Proficiency



Durham Chapel Hill Carrboro MPO

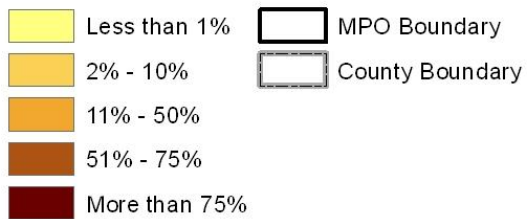
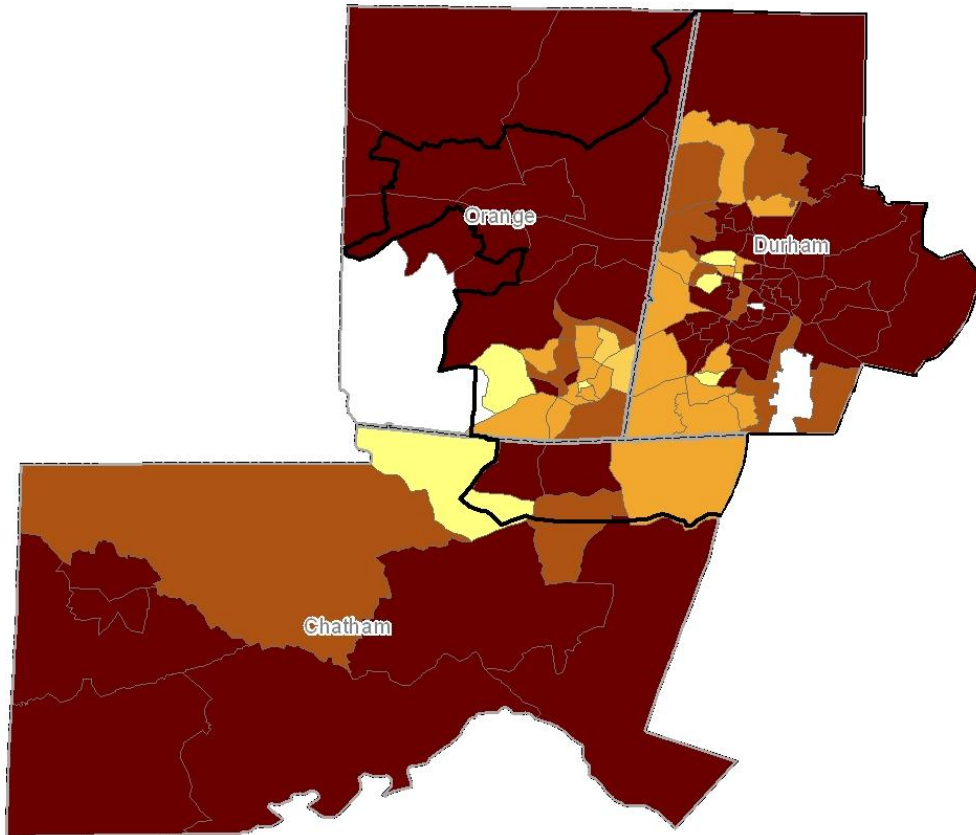


## Percent of Total Population that Speaks Spanish and has Limited English Proficiency



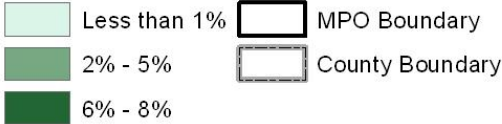
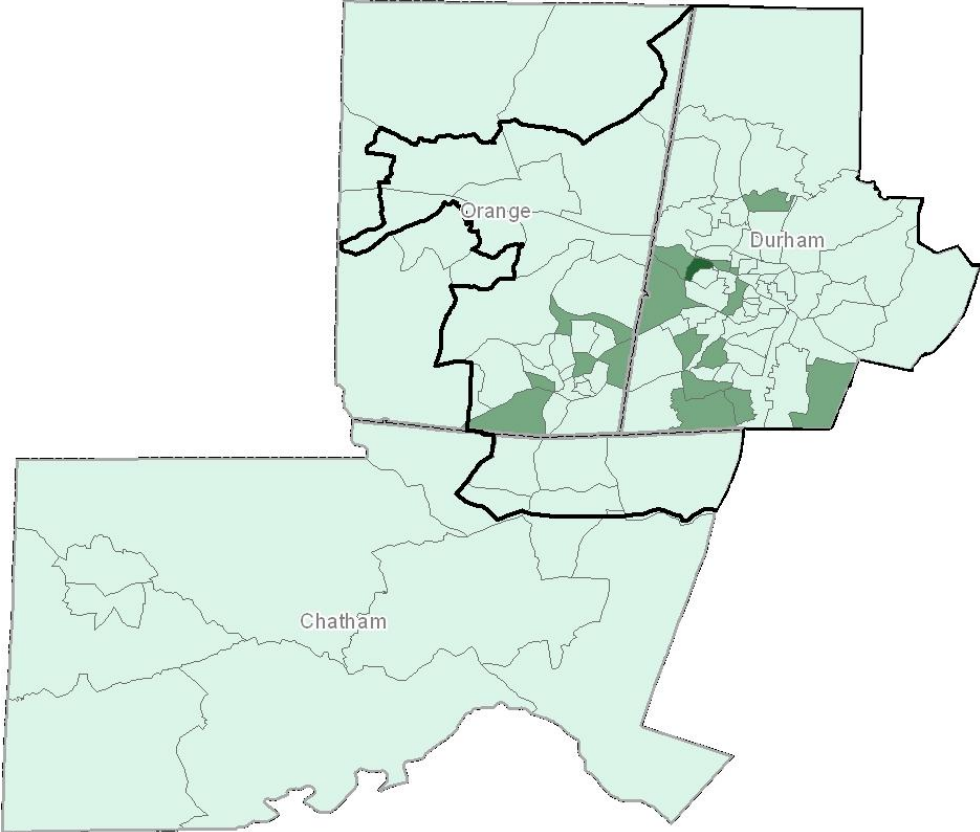
Durham Chapel Hill Carrboro MPO

# Percent of LEP Population that Speaks Spanish



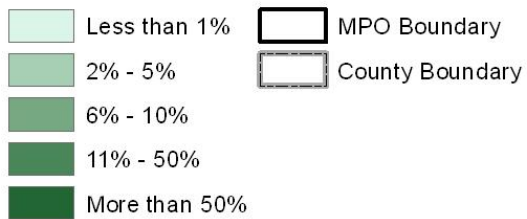
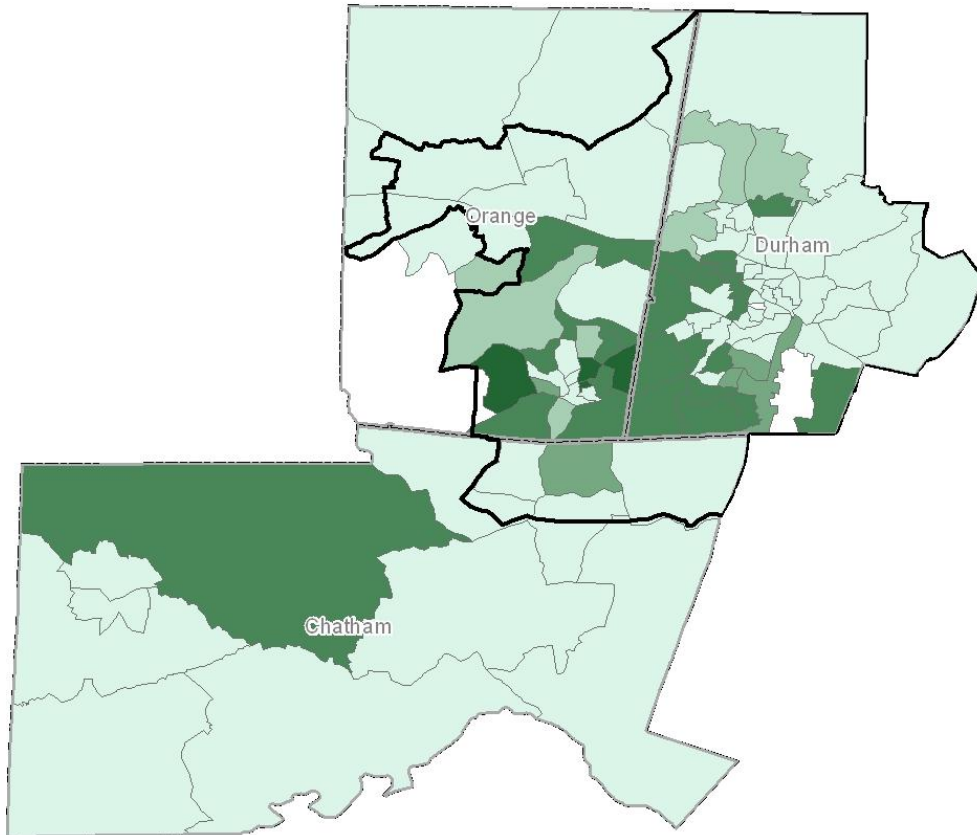
Durham Chapel Hill Carrboro MPO

# Percent of Total Population that Speaks Chinese and has Limited English Proficiency



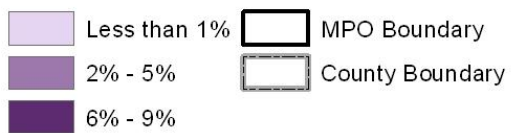
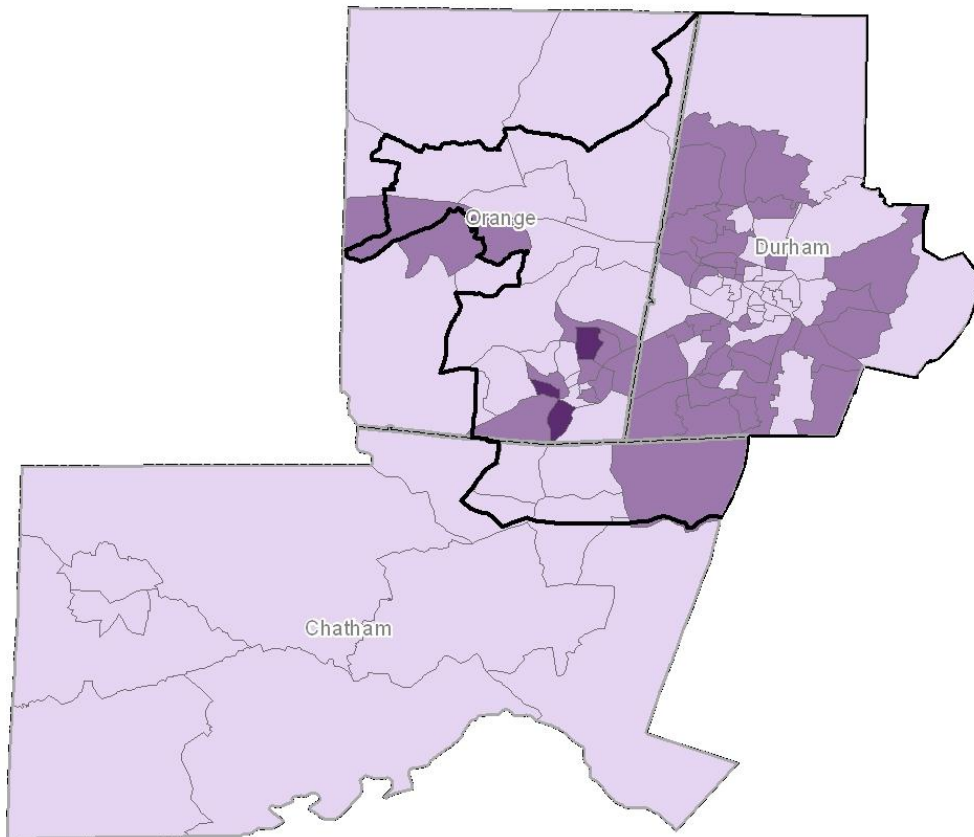
Durham Chapel Hill Carrboro MPO

# Percent of LEP Population that Speaks Chinese



Durham Chapel Hill Carrboro MPO

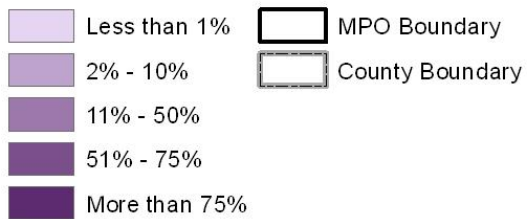
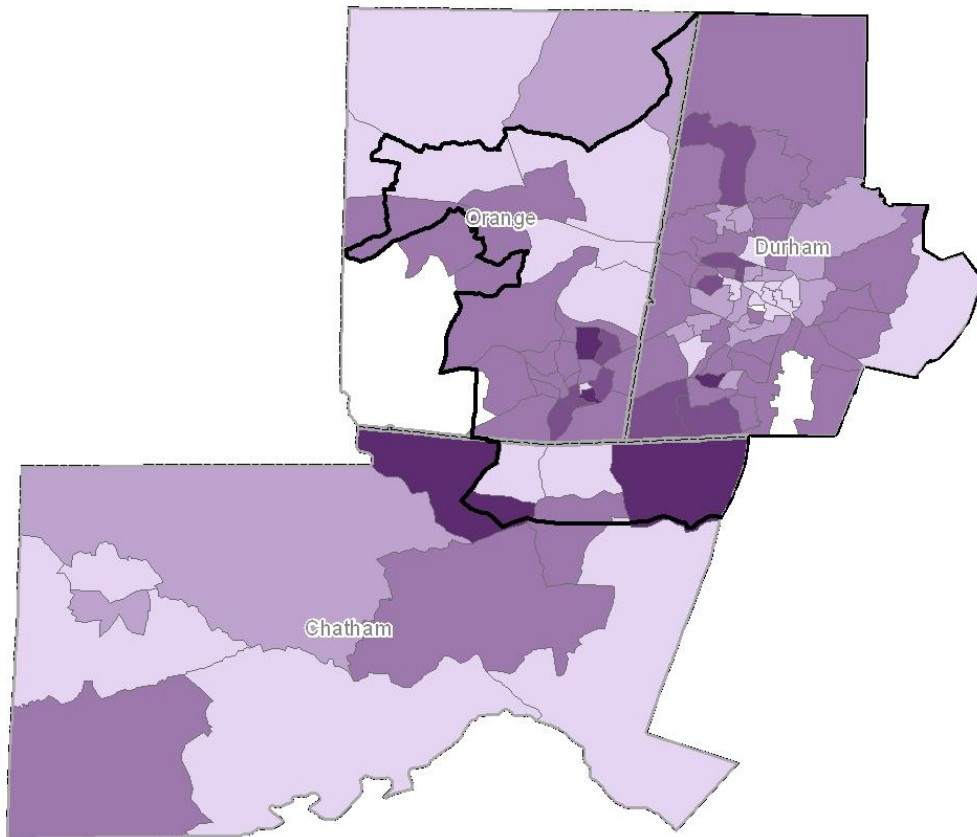
## Percent of Total Population that Speaks Other Languages\* and has Limited English Proficiency



\* "Other languages" refers to any language other than English, Spanish, or Chinese.

Durham Chapel Hill Carrboro MPO

## Percent of LEP Population that Speaks Other Languages\*



\* "Other languages" refers to any language other than English, Spanish, or Chinese.

Durham Chapel Hill Carrboro MPO

**FACTOR 2: Frequency with which LEP individuals come in contact with DCHC MPO programs, activities, or services.**

The DCHC MPO assesses the frequency at which staff has or could possibly have contact with LEP persons. This includes documenting phone inquiries and surveying public meeting attendees. No previous LEP requests have been received thus far. Documentation of LEP requests will be done annually upon implementation of the LEP plan. MPO transit operators also provide outreach to the Spanish population. Arrangements are made to provide translation when requested.

**FACTOR 3: Nature and importance of the program, activity or service provided by the DCHC MPO to the LEP population.**

The MPO ensures that all segments of the population, including LEP persons, have been involved, or have the opportunity to become involved, in the transportation planning process. The impact of proposed transportation investments on underserved and underrepresented population groups is part of the evaluation process for use of federal funds in three major areas: 1) an annual unified planning work program; 2) a seven-year transportation improvement program; 3) a long-range transportation plan covering 20+ years.

Inclusive public participation is a priority and other MPO plans studies and programs as well. The impacts of transportation improvements resulting from these planning activities do have an impact on all residents. Understanding and involvement are encouraged throughout the process. The MPO is concerned with input from all stakeholders, and every effort is made to make the planning process as inclusive as possible. Progress towards project planning and construction under the responsibility of NCDOT is coordinated with the MPO. NCDOT has its own policies to ensure that LEP individuals participate in the project planning.

To assess the nature and importance of the programs, activities, and services provided by DCHCMPO to LEP and general community, the DCHCMPO conducted an internal and external review:

**Internal Review**

Internally, DCHCMPO staff evaluated programs and services based on the DCHC MPO's function as the regional entity responsible for transportation planning in the DCHC MPO panning area, the potential public interest, and the impact upon the quality of life of the public by DCHC MPO functions. Per evaluation of DCHC MPO programs, documents, and services, it was determined the following documents could be seen as vital documents:

- Metropolitan Transportation Plan
- Transportation Improvement Plan
- Unified Planning Work Program
- Public Involvement Policy

Based on this evaluation and the language assessment in Factor 1 of the Four Factor analysis, the staff will seek partner organizations proficient in Spanish to provide information about DCHC MPO plans and programs. Translation and/or interpretation services, for Spanish and other languages, will be considered upon request and in coordination with partner agencies in the region. Furthermore, public meeting notices



would be classified as vital documents requiring translation services. To facilitate the translation process for public meeting notices, the staff will prepare a template for the selected primary LEP language.

If any notice or document bears a direct impact toward a localized population that meets or exceeds the LEP Safe Harbor clause, then the notice or document will be considered for translation as described previously, to include translating notices and key information contained within vital documents.

### **External Review**

Externally, a public outreach effort within the identified language communities will be conducted. Community groups that work with the Spanish populations will be contacted for their input. In this outreach, the DCHC MPO staff will provide community groups a synopsis of what the primary purpose and functions of the Durham-Chapel Hill-Carrboro Metropolitan Planning Organization and ask what key issues, programs, services, are and activities they perceive are critical. These will be noted in the transportation planning process and sent forward to the appropriate agency and/or locality as applicable.

### **FACTOR 4: Resources available to the DCHC MPO and Overall Costs to Provide LEP Assistance**

Given the size of the LEP population in the MPO's planning boundary and financial constraints, full translation of all transportation plan documents, except for vital documents (a document that contains information critical to obtaining federal funds or benefits), is not appropriate at this time. However, continued growth of our area and its Spanish-speaking population makes offering Spanish translation, in many areas, a good community investment; therefore, the MPO will make efforts to collaborate with state and local agencies to provide language translation and interpretation services where practical within the scope of funding available.

The MPO will use a “seven business day” notification statement in order to be most accommodating to the public. If the seven-day notice becomes impractical to meet LEP assistance requests, this LEP plan standard will be changed.

## **4 DCHC MPO Transit Operators LEP Initiatives**

MPO transit operators are constantly looking for ways to improve communication and enhanced contact and accessibility with LEP patrons. Over the past several years, transit officials organized a public work sessions dedicated to LEP patrons who use their systems. Overall, an average 20 people mostly Spanish speaking attended. Others were from French Speaking Southeast Asia and Africa. The purpose of the meetings was to provide the patrons the opportunity to understand the transit system operations and also afford them insight into the language and outreach needs of the group.

Key Ideas from these meetings are summarized as follows:

- The importance of communicating with these groups through their children, most of whom speak both native languages and English.
- Incorporating images into our communications for those who prefer not to read whether it is in English or Spanish.
- Attending major festivals and events with space or booth to attract visitors - can have games



and/or giveaways.

- Using the radio to leverage communications. The radio stations are highly listened to while some are at home or on the jobs. We can work with the DJs to promote educational opportunity for public transit. The community looks up to the DJs.
- The introduction of the transit user advocates or ambassadors program as well as introduction of the Citizens meetings to afford riders the opportunity to provide input to various service initiatives that may impact LEP communities.

Other initiatives for improving communication with and accessibility for LEP residents are summarized below:

- A staff appearance on local Radio talk shows and community television, whose guest periodically include Spanish leaders in the community to discuss transit access issues.
- Appearance of City Staff on Spanish radio, providing project information in Spanish to listeners;
- An information booth with bilingual staff and project information at various communities and municipal events/festivals;
- Spanish advertisements published in local Spanish papers to announce all project public meetings.

#### **4.1 Transit Regional Call Centers and LEP Outreach/Awareness**

Transit operators in the Triangle Region teamed up and established a regional consolidated call center for Triangle residents to access transit service information from a single source. This center has been in operation for the past 5 years and is currently operated by the Triangle Transit. It has several customer service attendants who take live calls and answer patrons questions related to transit services in the Triangle Region. Over the past 5 years calls have more than quadruple. An increasing number of these calls now come from riders with Limited English Proficiency or LEP group. To assist this group the center constantly has a bilingual (English & Hispanic) call takers to assist the largest LEP population in the triangle –Spanish speaking population. Over the past 3 years non-English speaking calls have averaged 1% of all calls received, making it imperative for the service to acknowledge the importance of this population group. In the past two years there have been 185 calls originating from non-English speakers of mostly Spanish origin.

In addition to the live or voice response system transit operators and the Call Center periodically administers surveys asking patrons to indicate if there was other languages that needed to be covered. So far, French has been the only language that has been requested. Since the request came from a single source the individual was directed to a French-Speaking staff for direct assistance.

Quarter	Calls Received	Calls Answered	Calls Abandoned	Total % Calls Answered	Estimated Total LEP Calls
7/1/10 - 9/30/10	108,662	104,751	3,911	96.4%	109
10/1/10 - 12/31/10	124,500	117,166	7,334	94.1%	125
1/1/11 - 3/31/11	118,347	110,303	8,044	93.2%	118
4/1/11 - 6/30/11	116,413	110,769	5,644	95.2%	117
<b>TOTAL</b>	<b>467,922</b>	<b>442,989</b>	<b>24,933</b>	<b>94.7%</b>	<b>469</b>
<b>FY10 Total</b>	<b>370,898</b>	<b>362,437</b>	<b>8,461</b>	<b>97.7%</b>	<b>371</b>
<b>% Change</b>	<b>26.2%</b>	<b>22.2%</b>	<b>194.0%</b>	<b>-3.1%</b>	<b>21%</b>

Regional Call  
Center FY2011

**Phone Call Distribution by Individual Transit Systems**

Agency	% of Calls*	Estimated Calls in FY11**
CAT	65.2%	303,892
DATA	13.9%	64,787
Triangle Transit	12.9%	60,126
Cary Transit	3.0%	13,983
Chapel Hill Transit	4.9%	22,839

\*Based on a sample of over 70,000 phone calls received in 2011.

**Customer Feedback Totals**

Agency	Complaints	Commendations	Totals	LEP Estimates
CAT	628	29	657	3.0
DATA	424	19	443	4.0
Triangle Transit	393	45	438	4.0
Cary Transit	19	1	20	0.2
Chapel Hill Transit	101	6	107	0.1
Regional Call Center	27	14	41	0.3

**4.2 Interpretation and Translation Services**

Latino media outlets and television and radio stations, La Conexion, Que Pasa, Univison, Telefutera, La Ley and EL Centro, help provide translation and interpretation services to various MPO agencies and transit operators. These media outlets are typically used to resolve public safety needs, to assist with general interpretation and translation, to provide court-certified interpreters, to communicate with the audibly impaired, or to provide language proficiency testing for public safety personnel. Further, DCHC MPO member agencies use the aforementioned Latino media sources below to offer interpretation and translation services, mostly in Spanish free of charge to the City.

#### **4.2.1 Bus Operators:**

Currently, no official data is kept by bus drivers on interaction with LEP passengers. However, there are a number of current fixed route bus operators and Customer Service Representatives who are bilingual and who are constantly called upon to assist in the interpretation of various services to our Hispanic patrons as well as the dissemination of information to the same group.

#### **4.2.2 Paratransit Operators:**

The paratransit operators use mostly the services of the County Social Services which has translator resources for Hispanic community. The Department also works with Churches and with the Latino community organizations within the metropolitan area. Brochures, announcements and news about our paratransit program programs relating to our services are sent to this organization for dissemination of in the inbound calls coming through the our scheduler voice response system are sometimes sent to Spanish speaking customer service staffers. In very rare case do the paratransit system utilize Spanish speaking driver to provide assistance or by request this is because 99 percent of the paratransit (demand responsive) clients are English speaking patrons. In very rare occasions when a non-English Speaking client ask for a service our in-house Spanish speaking staff is able to offer that assistance.

#### **4.2.3 Transit Security Police Unit**

Transit police officers have interpreters available via the above mentioned services, and there are transit officers with fluent multilingual capabilities in Spanish. Generally, officers are taught limited Spanish phrases in BLET. Very few cases involving LEP patrons are reencountered especially in areas such as drugs, guns, robbery and fighting that demand immediate arrest, very few LEP encounters are recoded.

## **5 Meeting the LEP Requirements**

Engaging the diverse population within the MPO boundaries is important. DCHCMPO is committed to providing quality services to all citizens, including the LEP population we serve. Spanish has been identified as, by far, the most dominant language spoken by LEP individuals in this MPO service area. All language access activities detail below will be coordinated in collaboration with the MPO board and staff.

### **5.1 Providing Notice to LEP Persons**

The USDOT LEP guidance indicates that once an agency has decided, based on the four factors, to provide language services, it is important that the recipient notify LEP persons of service is available free of charge in languages LEP persons would understand. Examples of methods of notification include:

1. Stating in outreach documents that language services are available
2. Signage that free language assistance is available with advance notice
3. Working with community-based organizations and other stakeholders to inform LEP individuals of the MPO services and the availability of language assistance
4. Providing information as to the availability of translation services (free of charge) when advertising for public hearings and MPO-related workshops.

Other reasonable steps will depend on:

- The number and proportion of LEP persons potentially served by the program or activity and the variety of languages spoken in the service area.
- The frequency with which LEP individuals are affected by the program or activity.
- The importance of the effect of the program on LEP individuals.
- The resources available to the recipient and the urgency of the situation.
- The level of services provided to fully English proficient people.
- Whether LEP persons are being excluded from services or provided a lower level of services.
- Whether the recipient has adequate justification for restrictions, if any, on special language services or on speaking languages other than English.

DCHC MPO intends to take reasonable steps to make available interpreter services, free of charge, and to include, at a minimum, Spanish translators upon request of at least seven business days prior to MPO board and committee meetings, workshops, forums, or events. The MPO is defining an interpreter as a person who translates spoken language as opposed to a translator who translates written language and transfers the meaning of written text from one language into another. The MPO transit operators currently have interpretation and translation services as described in the transit section of this report. The Lead Planning Agencies will coordinate interpretation and translation efforts with transit operators.

## **5.2 Proposed Ongoing LEP Services include:**

- Coordination with the appropriate MPO agencies to provide an interpreter for phone and/or walk-in customers.
- Coordination with Que Pasa newspaper to translate small documents - up to two pages.
- Coordination with the Gov. Morehead School to convert small documents - up to three pages - to Braille provided there is a seven day advance notice.
- Coordination with partner agencies and special needs organizations to meet requested needs.
- Creation of a list of inside and outside sources that can provide competent oral and written translation services
- Analysis of the cost of these services, if any
- Identification of potential budget and personnel limitations pertaining to these services
- When an interpreter is needed, either in person or on the telephone, we first determine which language is required. If a translator for the required language is not available or a formal interpretation is required, staff shall consider using a translation service company.

## **5.3 MPO Staff Training**

Appropriate DCHC MPO (LPA) staff will be provided access to the LEP Plan and will be offered training on procedures and services available. Training topics will include:

- Understanding Title VI of the Civil Rights Act of 1964 and LEP responsibilities.
- LEP program responsibilities and obligations.
- Language assistance services offered.

- Use of LEP Language Assistance Cards (“*I Speak Cards*”).
- Documentation of language assistance requests.

Such training will be developed to ensure that staff is fully aware of LEP policies and procedures and are effectively able to work in person and/or by telephone with LEP individuals. Other MPO agencies’ staff will be provided with the LEP plan and will be educated on procedures and services available. An information brochure will be prepared and will establish meaningful access to information and services for LEP individuals and employees in public contact positions, especially those who will serve as translators for interpreters.

Signs will be posted that language assistance is available in public areas such as at DCHC MPO reception, conference room waiting areas, and the DCHC MPO website.

#### 5.4 Outreach Techniques

- If DCHC MPO staff knows that they will be presenting a topic in a geographic location with a known concentration of LEP persons, DCHC MPO staff will make a concerted effort to have meeting notices, fliers, advertisements, or agendas printed in the alternative language. MPO staff will coordinate with local community groups to have someone available who can help interpret information at the meeting.
- When running a general public meeting notice in a geographic location that could be of potential importance to LEP persons or if staff will be hosting a meeting or a workshop, DCHC MPO staff will, to the extent possible, insert the following clause: “An interpreter will be available” in the predominant language. DCHC MPO staff will seek to coordinate with local community groups to have someone available who can help interpret information at the meeting.
- Include an LEP assistance statement when running general public meeting notices:

## 6 Language Assistance Measures & LEP Strategies

When an interpreter is needed, in person or on the telephone, DCHC MPO staff will first determine what language is required. DCHC MPO staff will provide the service if available. If not available, the request will be directed to the LEP Coordinator, who will check the MPO *LEP Employee Guide* to see what languages are offered. If the required is not available, the LEP coordinator will seek to address the request from the on-call. The following DCHC MPO documents will be available in Spanish:

- DCHC MPO LEP brochure.
- Nondiscrimination Complaint Form.
- Citizens Guide (Provides an overview of transportation planning processes).
- Additional translation and/or interpretation services will be considered upon request and in coordination with partner agencies in the region.

## LEP Strategies for DCHC MPO Agencies

Agency	Telephone Services	Printed Material	In-Person Assistance	Media Ads	Web Info	Translation	Bus Drivers' Assistance	Citizen Advisory Committee
DCHC MPO - LPA	*	*	*	*	*	*		*
DATA	*	*	*	*	*	*	*	
Triangle Transit	*	*	*	*	*	*	*	
Chapel Hill Transit	*	*	*	*	*	*	*	
Chapel Hill	*	*				*		
Carrboro	*	*				*		
Durham City	*	*	*			*		
Durham County	*	*				*		
Hillsborough	*	*				*		
Chatham County	*	*				*		
Orange County	*	*				*		
Call Center	*							

## 7 Monitoring and Updating the LEP Plan

This plan is designed to be flexible and is one that can be easily updated. At a minimum, the MPO will update the LEP plan on a bi-annual basis. Each update should examine all plan components, such as:

- How many LEP persons were encountered?
- Were their needs met?
- What is the current LEP population of the MPO area by County?
- Has there been a change to the type of languages where translation services are needed?
- Have the MPO's available resources, such as technology, staff, and financial costs, changed?
- Has the MPO fulfilled the goals of the LEP plan?
- Were any complaints received?

The DCHC MPO will follow the Title VI Program monitoring and reporting schedule for the LEP Plan, which includes bi-annual reports to NCDOT and FHWA. Reports will address the following questions:

- How many LEP persons were encountered?
- What is the current LEP population in DCHC metropolitan area?
- Has there been a change in the languages where translation services are needed?
- Is there still a need for continued language assistance for previously identified DCHC MPO programs?
- Are there other programs that should be included?
- Have DCHC MPO available resources, such as technology, staff, and financial costs changed?

## 8 Website

The Lead Planning Agency and the MPO transit operators have websites for public outreach and information dissemination. The information is essentially in English. However bus maps and route schedules are provided and posted at the sites in both English and Spanish, the predominantly leading

language that most of our non English speaking patrons use. The MPO is in the process of updating the MPO website to include a Spanish page.

DCHC MPO staff will post the LEP Plan on its website at <http://www.dhcmpo.org>. Any person with Internet access will be able to view the plan. Copies of the LEP Plan will also be provided to the DCHC MPO member jurisdictions and interested parties upon request.

## **9. Assessment of Resource Availability for Ongoing LEP Implementation**

The DCHC MPO assessment for available resources will be an ongoing activity. Initially, volunteer staff translators and interpreters will be identified. The Lead Planning Agency (LPA) staff will conduct outreach to identify volunteer interpreters, civic groups, and community organizations to further coordinate language assistance services.

The following sections provide more details about how DCHC MPO staff will provide assistance for persons of Limited English Proficiency, train staff, distribute LEP information to the public, and monitor the LEP plan.

- Examine records of requests for language assistance from past meetings and events to anticipate the possible need for assistance at upcoming meetings;
- Set up a sign-in sheet table at DCHCMPO-sponsored events, have a staff member greet and briefly speak to attendees to informally gauge the attendee's ability to speak and understand English;
- Have the Census Bureau's "*I Speak Cards*" at workshop or conference sign-in sheet table. While staff may not be able to provide translation assistance at this meeting, the cards are an excellent tool to identify language needs for future meetings;
- Assistance in the DCHC MPO reception area;

## **10 Dissemination of the MPO LEP Plan**

The LEP plan will be posted on the MPO website at [www.dhcmpo.org](http://www.dhcmpo.org). Any person, including social service, nonprofit, and other community partners with Internet access, will be able to access the plan. For those without personal Internet service, County libraries offer free Internet access. Copies of the LEP plan will be provided to each member jurisdiction's personnel department, NCDOT, FHWA, FTA, and any person or agency requesting a copy. Each MPO sub recipient will be provided a copy and will be educated on the importance of providing language assistance.

Any questions or comments regarding this plan should be directed to the MPO staff:

Felix Nwoko, PhD, Transportation Planning Manager

DCHCMPO

101 City Hall Plaza

Durham, NC 27701

(919) 560-4366 Telephone

(919) 560-4561 Facsimile

[felix.nwoko@durhamnc.gov](mailto:felix.nwoko@durhamnc.gov) E-mail

## DCHC MPO Discrimination Complaint Procedure

Title VI of the civil rights act of 1964 as of today prohibits discrimination on the basis of race, color, national origin in programs and activities receiving federal financial assistance. As a sub recipient of NCDOT, the capillary MPO has in place the following discrimination complaint procedures:

1. Any person who believes that he or she or any specific class of persons has been subjected to discrimination or retaliation prohibited by title VI of the Civil Rights Act of 1964 as amended and related statutes may file a written complaint. All written complaints received by the capillary MPO shall be referred immediately by that MPO's title VI specialists will notify the complainant in writing of the final decision reached, including the proposed disposition of the matter. The notification will advise the complainant of his/her right to file a formal complaint with the NCDOT, EEO, if they are dissatisfied with the final decision rendered by the MPO. The MPO Title VI coordinator will also provide NCDOT Title VI coordinator with a copy of this decision and summary of findings.
2. The MPO title VI specialists will maintain a log of all verbal or written complaints received. The log will include the following information:
  - a. Name of complainant
  - b. Name of alleged discriminating official
  - c. Basis of complaint: i.e. , race, color, national origin, sex, age, disability, religion, familial status, or retaliation.
  - d. Date verbal or not written complaint was received by the MPO
  - e. Did the MPO Title VI coordinator notify the NCDOT, Title VI Coordinator as appropriate of the verbal or written complaints.
  - f. Explanation of the actions the MPO has taken or has proposed to take to resolve the allegations raised in the complaint.

Title VI of the Civil Rights Act of 1964, as amended, prohibits discrimination on the basis of race, color, or national origin. Subsequent laws and Presidential Executive Orders added handicap, sex, age, income status and limited English proficiency to the criteria for which discrimination is prohibited, in programs and activities receiving federal financial assistance. As a sub-recipient of federal assistance, the DCHCMPO has adopted a Discrimination Complaint Procedure as part of its Nondiscrimination Plan to comply with Title VI and associated statutes.

1. Any person who believes that he or she, individually, as a member of any specific class, or in connection with any disadvantaged business enterprise, has been subjected to discrimination prohibited by Title VI of the Civil Rights Act of 1964, as amended, or any nondiscrimination authority, may file a complaint with the DCHC MPO. A complaint may also be filed by a



representative on behalf of such a person. All complaints will be referred to the DCHC MPO Title VI Coordinator for review and action.

2. In order to have the complaint considered under this procedure, the complainant must file the complaint no later than 180 days after:
  - a. The date of the alleged act of discrimination; or
  - b. Where there has been a continuing course of conduct, the date on which that conduct was discontinued

In case, the recipient or his/her designee may extend the time for filing or waive the time limit in the interest of justice, specifying in writing the reason for so doing.

1. Complaints shall be in writing and shall be signed by the complainant and/or the complainant's representative. Complaints should set forth as fully as possible the facts and circumstances surrounding the claimed discrimination. In the event that a person makes a verbal complaint of discrimination to an officer or employee of the recipient, the person shall be interviewed by the Title VI Coordinator. If necessary, the Title VI Coordinator will assist the person in putting the complaint in writing and submit the written version of the complaint to the person for signature. The complaint shall then be handled in the usual manner.
2. Within 10 days, the DCHC MPO Title VI Coordinator will in acknowledge receipt of the allegation in writing, inform the complainant of action taken or proposed action to process the allegation, advise the respondent of their rights under Title VI and related statutes, and advise the complainant of other avenues of redress available, such as the North Carolina Department of Transportation (NCDOT) and the Federal Highway Administration (FHWA).
3. Within 10 days, a letter will be sent to the NCDOT, Civil Rights Division, and a copy to the FHWA Raleigh Division Office. This letter will list the names of the parties involved, the basis of the complaint, and the assigned investigator.
4. In the case of a complaint against the DCHC MPO, NCDOT Civil Right investigator will prepare a final investigative report and send it to the complainant, respondent (DCHC MPO person listed), the DCHC MPO Title VI Coordinator, and FHWA Raleigh office.
5. Within 60 days, the DCHC MPO Title VI Coordinator will conduct and complete an investigation of the allegation and based on the information obtained, will render a recommendation for action in a report of findings to the Executive Director of the recipient of federal assistance. The complaint should be resolved by informal means whenever possible. Such informal attempts and their results will be summarized in the report of findings.
6. Within 90 days of receipt of the complaint, the DCHC MPO Title VI Coordinator will notify the complainant in writing of the final decision reached, including the proposed disposition of the matter. The notification will advise the complainant of his/her appeal rights with NCDOT or the Federal Highway Administration (FHWA), if they are dissatisfied with the final decision rendered by the DCHC MPO. The DCHC MPO's Title VI Coordinator will also provide the NCDOT Civil Rights Office with a copy of the

determination and report findings.

7. In the case a nondiscrimination complaint that was originated at the DCHC MPO is turned over to and investigated by NCDOT, FHWA or another agency, the DCHC MPO Title VI Coordinator will monitor the investigation and notify the complainant of updates, in accordance with applicable regulations and NCDOT policies and procedures.
8. In accordance with federal law, the DCHC MPO will require that applicants of federal assistance notify the DCHC MPO of any law suits filed against the applicant or sub-recipients of federal assistance or alleging discrimination; and a statement as to whether the applicant has been found in noncompliance with any relevant civil rights requirements.
9. The DCHC MPO will submit Title VI accomplishment reports to the NCDOT, Civil Rights Office, in compliance with NCDOT's established processes.
10. The DCHC MPO will collect demographic data on staff, committees, and program areas in accordance with 23 CFR, 49 CFR and NCDOT's established procedures and guidelines.
11. Pursuant to the North Carolina Public Records Act, the DCHC MPO will retain Discrimination Complaint Forms and a log of all complaints filed with or investigated by the DCHC MPO.
12. Records of complaints and related data will be made available by request in accordance with the USDOT and North Carolina Freedom of Information Act.

Please provide the following information, necessary in order to process your complaint. Assistance is available upon request. Complete this form and mail or deliver to: DCHC MPO, The lead Planning City of Durham, Transportation, 101 City Hall Plaza, Durham, NC 27701.

If the complaint is against the DCHCMPO, you may complete this form and mail or deliver to: NCDOT

NCDOT  
Civil Rights Manager,  
Address 1700  
Raleigh, NC 27xxx.

For any questions, you can reach our office Monday-Friday from 8:00am to 4:30pm at (919) 560-4366, or you can email the DCHCMPO Title VI Coordinator at [TitleVI-Coordinator@dchcmo.org](mailto:TitleVI-Coordinator@dchcmo.org).