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# The FCC's EEO Rules

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## Introduction:

- The FCC implements equal employment opportunity ("EEO") rules for broadcasters and cable TV, but generally defers to EEOC on discrimination claims.
- Bans discriminating against individuals on the basis of race, religion, color, national origin or gender.
- Broadcasters must create and execute an EEO program with outreach and recordkeeping components and communicate EEO policies to employees and job applicants.
- Applies to station employment units ("SEUs"), defined as all commonly-owned stations in the same market with at least one shared employee but mostly exempts SEUs with fewer than five full-time employees.
- FCC also exempts broadcasters affiliated with a religious entity if they establish religious affiliation/belief as a job qualification but may not otherwise discriminate.

- The FCC's EEO rules impose three basic mandates.
  - **Recruitment** obligations ensure that notice of broadcast job opportunities are widely disseminated throughout a SEU's community.
  - **Recordkeeping** obligations allow the FCC to verify compliance with the rules and ensure that broadcasters assess recruitment efforts.
  - **Reporting** obligations let the FCC and the public monitor outreach efforts.

# Recruitment

Three-prong approach.

- PRONG 1 requires wide dissemination of information concerning each and every full-time job vacancy;
- PRONG 2 requires notice of each full-time vacancy be provided to recruitment organizations (aka "entitled sources") requesting that notice; and
- PRONG 3 requires "recruitment initiatives," such as participation in job fairs, scholarship or internship programs.

## Recruitment (cont.)

**Prong 1:** Wide dissemination of information concerning each full-time job opening.

- Develop and use a list of sources that could reasonably be expected, collectively, to reach the SEU's entire community.
- May use websites and on-air announcements.
- If a source reaches a greater number of people and a more diverse audience, the fewer individual sources are needed.
- Limited guidance provides flexibility to broadcasters.

## Recruitment (cont.)

**Prong 1:** FCC-recognized limited exceptions to wide dissemination.

- Internal promotion not considered a vacancy.
- Temporary employees or part-timers (29 hrs or less p/week), **but** if part-timer is promoted to full-time, recruitment required to be done with part-time hire or before the promotion.
- “Exigent circumstances” in which recruitment may not be feasible, such as with: (a) emergencies and (b) unique and exceptional situations, which should be rare.
- Religious broadcasters establishing a religious qualification for a job may limit sources to those likely to produce candidates meeting the religious requirement.

## Recruitment (cont.)

**Prong 2:** Stations must provide notification of full-time job vacancies to any organization involved in assisting job seekers if that organization affirmatively requests it (an “entitled source”).

- Upon request and providing contact information, the source becomes legally entitled to notice.
- It is important to contact entitled sources for each relevant opening until there is a clear indication that they no longer want to be notified or the source no longer exists.

## Recruitment (cont.)

### **Prong 3:** Performance of “recruitment initiatives.”

- Stations must engage in general outreach activities not tied to specific job openings, such as job fairs, internships, and mentoring programs.
- SEU’s with 5-10 employees and/or located in a “small market” must engage in at least two initiatives, and all others must engage in four initiatives.
- Completion of initiatives may be over the two years or all in one year.

## Recruitment (cont.)

**Prong 3:** The FCC provides a menu of possible recruitment initiatives:

1. Participate in at least four job fairs. Station personnel who have substantial responsibility in making hiring decisions must be involved.
2. Host or co-sponsor at least one job fair.
3. Participate in at least four events with community organizations interested in broadcast employment issues.
4. Participate in events with educational institutions relating to career opportunities in broadcasting.
5. Establish an internship program.

## Recruitment (cont.)

### Prong 3: The FCC's Menu of Recruitment Initiatives. (cont.)

6. Participate "meaningfully" in scholarship programs for students interested in broadcasting (financial support alone is insufficient).
7. Provide training programs to station personnel to enable them to qualify for higher level positions.
8. Execute a mentoring program for station personnel.
9. Training to management-level personnel on EEO (*FHH webinars count!* 😊).
10. Post upper-level job openings in job banks or newsletters of groups with diverse membership.

## Recruitment (cont.)

### Prong 3: The FCC's Menu of Recruitment Initiatives.

11. Provide training to non-profit recruitment organizations regarding how to refer better candidates.
12. Sponsor at least two community events designed to highlight employment opportunities in broadcasting for members of the public.
13. Participate in Internet programs, job banks, and other programs designed to promote general outreach not directed to a particular job opening.
14. Participate in other activities reasonably calculated to further the goal of disseminating information about broadcasting employment opportunities to job candidates.

# Recordkeeping

- The FCC requires stations to retain documentation to verify compliance with recruitment prongs and assess outreach efforts.
- Must be produced in the event of an FCC investigation or audit.
- Necessary or useful for completing required reports.

## Recordkeeping (cont.)

- Retain the following for the station's entire license term:
  1. List all full-time job vacancies filled by job title.
  2. For each vacancy, the recruitment sources used to advertise the vacancy.
  3. The total number of interviewees for each vacancy and the referral source for each interviewee.
  4. The date each vacancy was filled and the recruitment source that referred the hiree.
  5. Copies of advertisements, website screen prints, letters, faxes, e-mails, traffic invoices and/or other communications announcing vacancies.

## Recordkeeping (cont.)

- For more general outreach efforts retain documents about the nature and scope of the initiative and station participation (e.g., personnel involved and documents to substantiate the SEU's participation report).
- FHH has forms available to assist you in collecting this information.
- Keep in mind that without documentation of a recruitment or outreach activity, it didn't happen!

# Reporting

- The FCC regularly reviews a station's EEO compliance through the following reports which must be in the public inspection file:
  - EEO Public File Report
  - Broadcast Mid-Term Report (FCC Form 397)
  - Broadcast Equal Employment Opportunity Program Report (FCC Form 396)
  - Random Audits
  
- Other FCC EEO Forms. Broadcast Equal Employment Opportunity Model Program Report on FCC Form 396-A, is filed as part of a construction permit, assignment, or transfer application.

# Reporting (cont.)

## EEO Public File Report

- Designed to allow the FCC and the public to assess a station's compliance with recruitment rules. Stations must disclose the recruitment data that the FCC requires to be collected throughout the year.
- Must be placed in the online public file and posted on the station's website each year on the anniversary date of the station's license renewal application filing date.
- Forms the basis for other required reports.

## EEO PUBLIC FILE REPORT

For the 12-month Period Ending \_\_\_\_\_

Prepared by: \_\_\_\_\_

This report covers the following employment unit:

<u>Call Sign</u>	<u>Facility ID No.</u>	<u>Type of Station</u>	<u>Location (City, State)</u>	<u>LMA (Y/N)</u>

### A. VACANCY LIST

The following is a list of all vacancies for full-time jobs during the previous 12 months:

Job Title	Date of Opening	Date Filled	Source Referring Hiree

### B. RECRUITMENT SOURCE LIST

During the previous 12 months, the following recruitment sources were contacted as vacancies for full-time jobs opened. For those sources not contacted for all openings, the job opening number from Section A is listed. Those sources marked with an asterisk (\*) are organizations that requested to be contacted as job openings occurred:

Recruitment Source	Address/Telephone Number	Contact Person	Job Openings/ All

### C. RECRUITMENT SOURCES PROVIDING INTERVIEWEES

During the previous 12 months, there was a total of \_\_\_\_ people interviewed for vacancies for full-time positions. The following is a list of the total number of interviewees referred by each recruitment source shown in Section B above:

Recruitment Source	Total No. of Interviewees

### D. RECRUITMENT INITIATIVES

During the previous 12 months, the station employment unit engaged in the following (menu option) initiatives (provide full details, including an explanation if no such initiatives were conducted during the period involved):

Prong 3 Menu Option

Name of Respondent: \_\_\_\_\_  
Signed: \_\_\_\_\_  
Typed Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_  
Telephone No. \_\_\_\_\_

## Reporting (cont.)

### Broadcast Mid-Term Report (*FCC Form 397*)

- For SEU's required to file, must be filed in the fourth year of the station's license term on the anniversary of the station's license renewal application due date.
- Must include two most recent EEO public file reports.
- Applicable to TV SEU's with five or more full-time employees and radio SEU's with eleven or more full-time employees.
- FCC has proposed eliminating this requirement but has not changed the rules yet.

## Reporting (cont.)

### Broadcast EEO Program Report (*FCC Form 396*)

- Filed with the FCC and placed in the public file on the day the station's license renewal is filed.
- Two most recent EEO Public File Reports are attached to the Form 396.
- List any discrimination complaints filed during the license term.
- Identify the person responsible for implementing the EEO program.
- A critical component of the license renewal.

## EEO Audits

- FCC audits the EEO performance of randomly-selected stations.
- The chosen station's entire SEU must be included in the response.
- The audit response must include:
  - two most recent EEO public file reports;
  - documentation of recruitment efforts for each full-time opening;
  - the number and recruitment sources of each interviewee for a full-time opening;
  - documentation of general outreach initiatives; and
  - information regarding required EEO self-assessment practices and communications to employees.
- If fewer than five full time employees, response is greatly reduced.

# Self-Analysis

- The FCC expects each broadcaster to analyze its recruitment efforts to ensure that it achieves outreach in the community.
- As a part of its EEO program, all broadcasters must:
  - 1) Establish a clear chain of command concerning EEO matters and review the performance of managers/supervisors in this area.
  - 2) Inform employees of the EEO program and stress its importance and enlist their cooperation.
  - 3) Review personnel practices (including promotion policies), and hiring practices to ensure against unintended discrimination.
  - 4) Assess the effectiveness and make changes as necessary to eliminate unproductive sources and add sources that may be better at generating qualified applicants from diverse backgrounds.
- Random EEO Audits will ask for information about what you have done in these areas.

# EEO Violations

- Fines can be as high as \$20,000.
- Other penalties can include reporting conditions, which allow the FCC to monitor compliance more closely, and short-term license renewals.
- Penalties attach to the station even upon an FCC-approved sale.

# Got Questions?

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