



THE FCC'S

# **EQUAL EMPLOYMENT OPPORTUNITY** RULES

PRIMER FOR OHIO BROADCAST STATIONS

*Prepared by* **Brooks, Pierce, McLendon, Humphrey & Leonard, LLP**  
OAB's FCC Counsel





---

---

**A PRIMER  
ON THE FCC'S  
EQUAL EMPLOYMENT  
OPPORTUNITY RULES**

for

**OHIO BROADCAST STATIONS**

*August 2018*

---

---



## Table of Contents

I.	Introduction .....	1
II.	The Nondiscrimination Provision .....	1
III.	EEO Program Requirements .....	2
	A.    Scope .....	2
	B.    General EEO Program Requirements .....	3
	C.    Specific EEO Program Requirements—Recruitment and Outreach Requirements.....	4
	1.    Recruitment for All Full-Time Vacancies.....	4
	2.    Notification to Community Groups .....	6
	3.    Menu Option Outreach Activities .....	7
	4.    Recordkeeping .....	9
	5.    Self-Assessment .....	10
	D.    Reporting Requirements .....	11
	1.    Public Inspection File .....	11
	2.    Mid-Term Report—FCC Form 397 .....	12
	3.    Broadcast EEO Program Report—FCC Form 396.....	13
	4.    Annual Employment Report—Form 395-B .....	13
	5.    Model EEO Program—Form 396-A.....	13
IV.	Enforcement.....	13
	A.    Overview .....	13
	B.    Random Compliance Audits .....	15
	C.    EEO Enforcement Actions .....	16
	1.    Admonishment .....	16
	2.    \$20,000 Fine and Additional Reporting Requirements .....	16
	3.    \$5,000 and \$9,000 Fines and Additional Reporting Requirements.....	17
	4.    Two \$20,000 Fines and Additional Reporting Requirements .....	17
	D.    Lessons to Learn.....	17
V.	Conclusion .....	18
VI.	Exhibits	



## I. Introduction

The FCC's current equal employment opportunity ("EEO") rules have been on the books for 15 years now, and they apply to commercial and noncommercial broadcasters (full-power radio stations, full-power TV stations, Class A TV stations, and LPTV stations), and multichannel video programming distributors such as cable and satellite TV operators. During this time, the FCC has commenced hundreds of EEO audits and has imposed numerous fines on stations for violation of the EEO rules.

The FCC's EEO rules are complex and warrant careful attention and review. EEO compliance is a critical component of the broadcast license renewal process, and stations are subject to random EEO compliance audits and other periodic reviews by Commission staff. Compliance audits can be extremely time consuming, especially where a station has not adopted appropriate practices and procedures in advance for maintaining EEO records.

This Primer provides a detailed summary of the FCC's EEO rules. Also, attached to this Primer as [Exhibit A](#) is a compliance checklist you may wish to use in assessing your station employment unit's EEO program and policies. [Exhibit B](#) contains a table of filing deadlines for Ohio radio and television stations. Additional exhibits include forms to aid you in your compliance with the EEO rules.

Please keep in mind that this Primer is only a "guide" and is not intended as a substitute for individual legal counsel on specific issues. If you have any questions concerning the FCC's EEO rules or your station's EEO practices or policies, please contact your communications counsel.

In a nutshell, the FCC's EEO rules have two main components. First, all broadcasters are prohibited from engaging in employment discrimination. Second, certain broadcasters are required to establish, maintain, and carry out an EEO program. A detailed discussion of each of these components and the FCC's enforcement policies follows.

## II. The Nondiscrimination Provision

The FCC's EEO rules provide that broadcast stations must not make discriminatory employment decisions—intentional or unintentional—on the basis of race, color, religion, national origin, or sex. (Please note: local, state, and other federal laws prohibit discrimination on other bases, such as age, disability, sexual orientation, veteran status, etc. Stations may wish to consult with labor and employment counsel when taking any employment actions to ensure compliance with all applicable laws.) All stations, regardless of staff size, are subject to the nondiscrimination provision. Nondiscrimination in employment practices and decisions is, of course, a long-standing obligation and is tied to a broadcaster's responsibility to serve the public interest.

The FCC has noted that a finding that a broadcaster has engaged in employment discrimination would raise a serious question as to its character qualifications to be an FCC licensee. Although the FCC does not have specific regulations concerning discrimination by reason of age or physical or mental disability, the Commission has emphasized that it will consider findings of unlawful employment discrimination by an appropriate government agency or court as bearing on the character qualifications of a licensee at license renewal time. Not only is discrimination an FCC concern, but discriminatory employment practices also violate other federal laws, including the Civil Rights Act of 1964, the Americans with Disabilities Act, and Equal Employment Opportunity Commission ("EEOC") regulations, and may violate state and local law as well.

There is a narrow "exception" to the FCC's discrimination prohibition, but it is limited to religious broadcasters. Under the FCC's rules, religious broadcasters are permitted to establish religious belief or affiliation as a job qualification for their employees but may not discriminate in any other way, and they must make good faith efforts to recruit widely among people with their preferred religious qualification. For purposes of the rule, a "religious" broadcaster is a licensee that is, or is closely affiliated with, a church, synagogue, or other religious entity. When in doubt, the FCC may evaluate the "religious" status of a

broadcaster on a case-by-case basis, taking into account several relevant factors. Stations would be well-served to consult with their FCC counsel before relying on any aspect of the limited religious broadcaster exemption.

The FCC will evaluate compliance with the nondiscrimination requirement during consideration of a station's license renewal application and will consider all evidence of discrimination, including final determinations of employment discrimination by courts and the EEOC. The FCC will consider such determinations even if there is a pre-judgment settlement.

Generally, the FCC will defer action on individual discrimination complaints pending final action by a court, the EEOC, or the relevant state or local agency with jurisdiction over the matter. Thus, the FCC will forward individual discrimination complaints received at the Commission to the EEOC for processing. Broadcasters are not required to notify the FCC contemporaneously of discrimination complaints filed with the EEOC. However, licensees and permittees are required to report annually to the FCC any adverse findings or adverse final actions involving discrimination complaints. (See 47 C.F.R. § 1.65(c).) Thus, please consult with your communications counsel regarding any adverse findings or adverse final actions involving discrimination complaints of any nature.

Notwithstanding the FCC's general deferral of individual discrimination complaints, it will consider allegations of discrimination prior to a final determination by the EEOC, state or local agency, or a court when warranted by unusual facts or circumstances. The FCC will determine on a case-by-case basis whether unique circumstances are indicative of discrimination and whether they warrant action by the FCC prior to a final determination by the EEOC, state or local agency, or a court. For example, if there are well-supported allegations of discrimination made by a large number of individuals against one broadcast station or allegations of discrimination that "shock the conscience" or are particularly egregious, the FCC may consider such allegations before the EEOC, state or local agency, or a court makes a final determination.

### **III. EEO Program Requirements**

The FCC's EEO rules require certain licensees to establish, maintain, and carry out a positive continuing program of specific practices designed to ensure equal opportunity and nondiscrimination in every aspect of station employment policy and practice. The rules include both general and specific EEO program requirements.

#### **A. Scope**

The EEO program requirements *only apply to station employment units that have five or more full-time employees*. The FCC will consider employees to be full-time if their regular work schedule is *30 hours per week or more*. A "station employment unit" is defined by the FCC as a group of commonly owned stations in the same "market" that share at least one full-time employee. The EEO program requirements apply to the entire group of stations as a whole, i.e., a "station employment unit." Thus, large broadcasters cannot claim small station status by maintaining that each station in a station combination employs a small staff. For example, if three stations with three employees each are commonly owned in the same "market" and share at least one employee, none of the stations in the "station employment unit" is exempt from the EEO program requirements, but the group only needs to have one overall EEO program.

Station employment units with fewer than five full-time employees are only required to file a Broadcast EEO Program Report (FCC Form 396) with their license renewal applications and may voluntarily file a Mid-Term Report (FCC Form 397) in which the station must complete only a certification of exemption (as of August 7, 2018, the FCC has an open proceeding that proposes to eliminate the FCC Form 397 mid-term filing requirement). While such station employment units are exempt from the EEO program requirements, as discussed above, such station employment units must still comply with the nondiscrimination provision.



As of August 2018, the EEO program requirements do not apply to part-time positions. Under the Commission's rules, a part-time employee is one who regularly works fewer than 30 hours per week.

With respect to station owners, the FCC will not consider owners holding a 20 percent or greater voting interest in a station who work at the station as "employees" for EEO purposes—provided, however, that no single owner has greater than 50 percent voting control of the station. Where one single owner has greater than 50 percent voting control, only that single owner is a non-employee for EEO purposes while any other owner who works at the station is considered an employee, even if this other owner holds a 20 percent or greater voting interest.

In addition, where a station is programmed by or brokered to another entity who is a licensee in the same "market," the brokered station is considered, for purposes of the FCC's EEO rules, to be part of the same station employment unit as the licensee's other stations in that market.

The FCC will leave the definition of a station's "market" to the broadcaster's good faith discretion. In making this determination, the FCC has said that a broadcaster should assess the technical coverage of the station; its marketing, promotional, and advertising practices; Nielsen definitions; and requests for notices of job vacancies from locally-based community groups.

## **B. General EEO Program Requirements**

Each station employment unit is required to establish, maintain, and carry out a continuing program of specific practices designed to ensure equal opportunity and nondiscrimination in every aspect of station employment policy and practice. A station's EEO program must:

1. Define the responsibility of each level of management to ensure vigorous enforcement of its EEO policy and establish a procedure to review and control managerial and supervisory performance;
2. Inform its employees and recognized employee organizations of the EEO policy and program and enlist their cooperation in adhering to the policy and program;
3. Communicate its EEO policy and program and its employment needs to sources of qualified applicants without regard to race, color, religion, national origin, or sex, and solicit their recruitment assistance on a continuing basis;
4. Conduct a continuing program to exclude all unlawful forms of prejudice or discrimination based upon race, color, religion, national origin, or sex from its personnel policies and practices and working conditions; and
5. Conduct a continuing review of job structure and employment practices and adopt positive recruitment, job design, and other measures needed to ensure genuine equality of opportunity to participate fully in all organizational units, occupations, and levels of responsibility.

As part of your station employment unit's general EEO program, you should ensure that you keep records demonstrating that your station is carrying out each of the five elements above in a meaningful way. Indeed, when the FCC audits stations, it specifically asks for information about how each station accomplishes these five elements.

## C. Specific EEO Program Requirements—Recruitment and Outreach Requirements

In addition to the “general” requirements described above, a station’s EEO program must also comply with “specific” requirements: Broadcasters must (1) widely recruit for all full-time vacancies; (2) send notification of full-time job vacancies to organizations that request such notification; (3) engage in a specified number of outreach activities selected from a menu of options; and (4) undertake certain recordkeeping and self-assessment efforts. Exhibit A contains a checklist that summarizes the specific EEO program requirements.

The FCC’s specific EEO program requirements do not require recruitment methods specifically targeted to minorities and females. The intent, according to the FCC, is to require broad and inclusive outreach so as to ensure that “all segments of the population have equal opportunities to compete for broadcast employment and that no segment is subjected to intentional or unintentional discrimination.”

Please note that “religious” broadcasters that elect to apply a religious qualification to their station employees are not required to comply with certain of the specific EEO program requirements. However, such religious broadcasters must make reasonable, good faith efforts to recruit applicants without regard to race, color, national origin or sex among those who are qualified based on their religious belief or affiliation. Such religious broadcasters are required to retain documentation as to the full-time vacancies filled, the recruitment sources used, the date each vacancy was filled, and the recruitment sources of the hires.

If a religious broadcaster has a religious qualification for some, but not all, of its positions, the broadcaster must comply with the recruitment and vacancy notification requirements discussed below with respect to those positions that are not subject to the religious qualification, and, if the broadcaster treats five or more of its full-time positions as not subject to the qualification, the broadcaster must also comply with the outreach activity “menu options” requirement discussed below. As with all broadcast station employment units, religious broadcast station’s employment units with a total of fewer than five full-time employees are not required to comply with any of the EEO program requirements, irrespective of whether some or all of their employees are subject to a religious requirement.

### 1. Recruitment for All Full-Time Vacancies

*Wide Dissemination.* Under the EEO rules, broadcasters have a fundamental obligation to recruit for every full-time (i.e., 30 hours or more per week) job vacancy, including both high-level and lower-level positions. As part of this requirement, broadcasters must *widely disseminate* to the “entire community” information concerning all full-time openings by developing and using a list of recruitment sources sufficient to ensure wide dissemination of information about each opening.

*Entire Community.* The FCC does not dictate the number or types of sources that a broadcaster must include in its own recruitment source list; however, if the sources used cannot reasonably be expected to reach the “entire community”, then the broadcaster may be found in violation of the rule. Sources could include, for example, advertising in local newspapers, magazines, and publications; Internet and community organization job banks; and sending vacancy notices to colleges, universities, and professional organizations. A station should periodically review its recruitment list to see if it is reasonable to expect the station’s vacancy notices to reach the entire community—if not, the list should be expanded. The rules leave the definition of “community” to a station’s good faith discretion.

Broadcasters may use any combination of recruitment sources, and the same recruitment sources need not be used for every hire. Although the rules seek to achieve broad outreach in a station’s community, this does not preclude the use of regional or national recruitment sources. The touchstone is that sources must be reasonably calculated to reach qualified potential applicants in the station’s community, irrespective of a station’s perception regarding the *likelihood* of finding a qualified applicant in

the community. Stations are not required to demonstrate that people in any particular segment of the community actually received notice or were aware of the vacancy.

*Internet-Only Recruitment May Be Satisfactory.* As of April 21, 2017, the FCC now permits stations to use Internet-only recruitment for full-time vacancies, but only under certain conditions. In its ruling, the FCC drew the following conclusions:

Today online job postings are more effective than traditional means of advertising job vacancies like newspapers, with job applicants tending to learn of vacancies through online postings. Given the relative popularity of online postings in comparison to newspaper advertisements, the record indicates that the use of online job postings likely will disseminate information about a job vacancy to the largest number of people possible, if posted on a widely available site. Broadcasters, MVPDs, and job seekers all will benefit from the use of the more effective and more efficient online job postings, and small entities in particular will benefit from the enhanced efficiency.

While this development is certainly a welcome change, it is critically important that stations understand the limits of the new policy: The FCC's ruling DOES NOT give broadcasters carte blanche to rely solely on Internet-based recruitment! Instead, the FCC's new policy allows stations to rely on Internet-only recruitment within the context of the existing "wide dissemination" standard, which still requires the distribution of vacancy notices to be reasonably calculated to reach a station's entire community. In that regard, the FCC specifically stated: "We find that Internet usage has become sufficient to justify allowing online job postings to be used as a sole recruitment source, in circumstances where doing so meets the 'widely disseminate' requirement of the rules."

In other words, broadcasters will remain free to select the number and type of recruitment sources that they use for full-time vacancies as long as they meet the requirement for *wide dissemination*. And, a broadcaster may choose to rely on a *single online job posting* if the posting appears on a website that is so widely used that it can reasonably be expected to widely disseminate information about the job vacancy. But, stations must be careful and deliberate in their decisions to use Internet-only recruitment—and especially with any decision to use only one website—after all, the FCC warned in its ruling that the EEO Staff "will continue to examine the specifics of each case to ascertain whether a particular broadcaster has satisfied the requirement to widely disseminate information about a full-time job vacancy."

Furthermore, broadcasters should heed the fact that the FCC expressly "encourages" each station to consider the following three factors when evaluating whether to rely on Internet-only recruitment: (1) whether the online job posting is easy to find; (2) whether job openings are posted online for an adequate period of time and the station maintains adequate records of interviewee data; and (3) whether the station "cultivates job referral relationships with resources that are likely to include diverse candidates." Indeed, while these three features are not *requirements*, the FCC stated that they will be "important factors in evaluating whether the online job posting process meets the 'widely disseminated' requirement."

*"Stale" Applications?* The FCC will permit stations to rely upon reasonably current applications on file where the applications were the product of a vacancy-specific recruitment for a substantially similar position. Thus, if a station recruits in accordance with the rules for a full-time vacancy, and in its judgment the applications received remain viable at a later date, the station may make additional hires for substantially the same position originally advertised from the existing applicant pool without initiating a new recruitment process. In addition, the station may consider, along with the previously submitted applications, additional applications received at job fairs or through other non-vacancy-specific efforts. The FCC has not stated definitively how long an applicant pool remains viable before becoming "stale" and requiring refreshment through a new recruitment effort. Station employment units may wish to consult with their communications counsel before relying on an old applicant pool to fill a vacancy.

*Internal Promotions and Temporary Hires.* Recruitment is not required for internal promotions of full-time employees to another full-time position, nor is recruitment required for temporary employees such as interns. If a person is hired full-time to perform a regular station function for an extended period of time (e.g., more than six months), such a hire will be treated as a permanent hire for which recruitment would be required. If a broadcaster hires an employee initially on a temporary basis and subsequently wishes to retain him or her on a permanent basis and full, widespread recruitment was not done at the time of the temporary hire, then full, widespread recruitment must occur before the employee is considered for a permanent position—there must be a meaningful opportunity for other applicants to compete. However, if recruitment was done at the time of the temporary hire, any later decision to convert the employee's status to full-time may be treated as an internal promotion.

*Duration of Recruitment Period.* Broadcasters must allow a reasonable time between the time recruitment is initiated and the time the position is filled for applications to be filed. Occasionally, a shorter time might be necessary because of “extraordinary circumstances”; however, the FCC cautions “that excessive instances of hires being made shortly after the initiation of recruitment could result in a finding of noncompliance.” The FCC has not specified what amount of time is “reasonable.”

*“Exigent Circumstances.”* The FCC recognizes that there may be *occasional* “exigent circumstances” when recruitment may not be feasible. For instance, there may be a legitimate need to replace immediately an employee who departs without notice and whose duties cannot be fulfilled, even briefly, by other station employees. The Commission will rely on the good faith discretion of broadcasters in deciding when recruitment is not possible. However, the FCC expects non-recruited vacancies to be rare and justifiable. In applying the exigent circumstances exception, the FCC will look to the entirety of a station's recruitment efforts in assessing its compliance with the EEO rules. The FCC is concerned that stations not abuse the exigent circumstances exception as a means of avoiding regular recruitment. If you are considering hiring a full-time employee without recruitment, you should consult with your communications counsel *before* going ahead.

*Word-of-Mouth Recruitment.* The FCC has stated that it is not the intention of the rules to prohibit word-of-mouth recruitment—the purpose is to ensure that word-of-mouth recruitment practices are not the sole method of recruitment and that all members of the public have an opportunity to compete for available jobs. Stations are free to use non-public recruitment sources and to interview and hire people referred by such sources, so long as they also use public recruitment sources sufficient to achieve broad outreach and fairly consider the applications generated by those sources.

## **2. Notification to Community Groups**

In addition to the basic recruitment obligation described above, broadcasters must also provide notification of job vacancies to any organization that requests such notification, provided the organization is a kind that regularly distributes information about employment opportunities to job seekers or refers job seekers to employers. The FCC's intention with this requirement is to provide a “safety valve” in the event that a community organization with ties to a particular sector of the community believes that such sector is not being adequately reached by the broadcaster's chosen recruitment procedures. The Commission expects broadcasters to make reasonable efforts to publicize the notification requirements in their communities so that qualifying groups are able to request that stations send vacancy notifications to these groups. In order to comply with this mandate, we encourage you to run a message similar to the following statement over the air, in local publications, and on your station's website (if you have a website):

Station [call sign], an equal opportunity employer, is dedicated to providing broad outreach regarding job vacancies at the station. We seek the help of local organizations in referring qualified applicants to our station. Organizations that wish to receive our vacancy information should contact [name] at station [call sign] by calling [local phone number].

Joint announcements by broadcasters or state broadcasters' associations—such as press releases, newspaper ads, and notices posted on a website—would also help to satisfy the requirement to publicize.

To be entitled to notices of vacancies, the requesting organization must provide the station with its name, mailing address, e-mail address (if applicable), telephone number, and contact person, and identify the category or categories of vacancies of which it requests notice. (An organization may request notice of all vacancies or select particular categories of vacancies.) An organization that wishes to be notified of vacancies need only notify a broadcaster once in order to be entitled to notification of all future full-time vacancies.

The FCC gives broadcasters discretion to determine the method of providing notice of vacancies to requesting parties, and such methods may include e-mail or fax. For example, a station may maintain an electronic list of recruitment sources and notify the sources simultaneously with a single e-mail or fax when a vacancy occurs.

Moreover, the FCC allows notification to be made as part of joint recruitment efforts among broadcasters. However, each broadcaster participating in the joint recruitment efforts remains individually responsible for ensuring that requested notifications relating to its station are made.

Even if a broadcaster does not receive a single request for notice of vacancy information, it is important to remember that the broadcaster is nevertheless responsible for compliance with the fundamental, widespread recruitment obligation to ensure that vacancy notices are widely disseminated and reasonably calculated to reach the station's entire community.

### **3. Menu Option Outreach Activities**

In addition to requiring stations to provide job vacancy notifications, the EEO rules also require stations to engage in specific non-vacancy outreach activities. The rules provide a “menu” of options for these additional outreach activities, and broadcasters may select the approaches in the menu that they believe will be most effective for their stations.

Every two years, employment units that are not located in a “smaller market” and have *more than ten full-time employees* must engage *in at least four (4)* of the initiatives on the menu. Employment units that are located in a “smaller market” or have *five to ten full-time employees* must engage in *at least two (2)* of the initiatives every two years. (Employment units with fewer than five full-time employees are not required to engage in any of the menu options.)

A “smaller market” is a community that is located in a county that is outside of all metropolitan areas, as defined by the Office of Management and Budget (“OMB”) or is located in a metropolitan area that has a population of fewer than 250,000 people. As of August 2018, the most recent list of metropolitan areas (released August 15, 2017) is available at <http://www.whitehouse.gov/sites/whitehouse.gov/files/omb/bulletins/2017/b-17-01.pdf>, and recent population estimates are available located on the U.S. Census Bureau's website at <http://www2.census.gov/programs-surveys/popest/datasets/2010-2017/metro/totals/cbsa-est2017-alldata.csv>.

The applicable two-year period for which the menu options must be completed will generally extend from the time a station files its renewal application to the second, then fourth, and then sixth anniversary thereof. For Ohio radio stations, the next pertinent anniversary is June 1, 2020, and for Ohio television stations, the next pertinent anniversary is June 1, 2019. Please refer to Exhibit B for anniversary dates for Ohio television and radio stations. When a broadcaster owns a station for less than the full two-year period, it must similarly complete the prorated number of menu options within the available time period.

The menu options for the outreach activities are as follows:

1. Participation in at least four job fairs by station personnel who have substantial responsibility in making hiring decisions;
2. Hosting of at least one job fair;
3. Co-sponsoring of at least one job fair with organizations in the business and professional community whose membership includes substantial participation by women and minorities;
4. Participation in at least four events, including conventions, career days, workshops, and similar activities, sponsored by organizations representing groups present in the community interested in broadcast employment issues;
5. Establishment of an internship program designed to assist members of the community to acquire skills needed for broadcast employment;
6. Participation in job banks, Internet programs, and other programs designed to promote outreach generally (i.e., outreach that is not primarily directed to providing notification of specific job vacancies);
7. Participation in scholarship programs designed to assist students interested in pursuing a career in broadcasting;
8. Establishment of training programs designed to enable station personnel to acquire skills that could qualify them for higher level positions;
9. Establishment of a mentoring program for station personnel;
10. Participation in at least four events or programs sponsored by educational institutions relating to career opportunities in broadcasting;
11. Sponsorship of at least two events in the community designed to inform and educate members of the public about employment opportunities in broadcasting;
12. Listing of each upper-level category opening in a job bank or newsletter of media trade groups whose membership includes substantial participation by women and minorities;
13. Provision of assistance to unaffiliated non-profit entities in the maintenance of websites that provide counseling on the process of searching for broadcast employment and/or other career development assistance pertinent to broadcasting;
14. Provision of training to management level personnel as to methods of ensuring equal employment opportunity and preventing discrimination;
15. Provision of training to personnel of unaffiliated non-profit organizations interested in broadcast employment opportunities that would enable them to better refer job candidates for broadcast positions;

16. Participation in other activities designed by the station reasonably calculated to further the goal of disseminating information as to employment opportunities in broadcasting to job candidates who might otherwise be unaware of such opportunities.

For example, to fulfill the outreach activities requirement, an employment unit that has more than ten full-time employees and is not located in a “smaller market” could, during a two-year period, host one job fair, establish an internship program, participate in a scholarship program, and participate in at least four events or programs sponsored by educational institutions relating to career opportunities in broadcasting. Performance of these four menu options would “earn” each station in the employment unit its four EEO outreach activity credits, provided, of course, that the station maintains the required documentation demonstrating the performance of the activities (recordkeeping is discussed below in Section C.4).

It is important to remember that these menu options, as with all of the other EEO program requirements, apply to “station employment units.” Thus, commonly owned stations in the same “market” where at least one employee is shared among the stations are required to undertake four menu options every two years for the entire group, not per station.

The FCC has largely declined to clarify or quantify the amount of effort that broadcasters must devote to each of the menu options. The rules permit broadcasters to perform outreach activities on a joint basis, either with other broadcasters, organizations such as the OAB, or with a corporate licensee’s company headquarters. However, each employment unit seeking credit for a particular menu option performed on a joint basis must have meaningful involvement in the activity. It is not sufficient for a station to merely lend its name to an activity or to provide money where the activity is otherwise entirely conducted by another entity. For example, the hosting of a job fair can be performed on a joint basis; however, insofar as a particular station employment unit’s participation amounts to little more than attendance at the job fair, that station employment unit can only claim credit for attendance, even if it has been nominally designated a co-sponsor.

The FCC has clarified that a station cannot claim “sponsorship” credit for a menu option unless the station has meaningful input into the planning and implementation of a particular event. Events can be jointly sponsored, so long as each broadcaster seeking credit for sponsoring the event is actively involved in planning and implementing the event.

With respect to scholarship, mentoring, internship, and training programs, the FCC recognizes that corporate headquarters and broadcasters’ associations often maintain such programs. In order to receive credit for participating in a corporate headquarters or association program of this nature, there must be meaningful involvement in the program by the employment unit seeking credit. For example, for a scholarship program, each employment unit seeking credit must be involved in activities such as designing the program, soliciting prospective scholarship applicants, screening, interviewing and selecting scholarship recipients, promoting the program on air, and evaluating the effectiveness of the program. For mentoring, internship, and training programs, a station can receive credit so long as personnel from the station are active participants in the programs.

The outreach activity requirements do not apply to religious broadcasters who apply a religious qualification to all employees. However, the outreach requirements do apply to religious broadcasters who employ five or more full-time employees in “non-religious” full-time positions (i.e., there is no religious qualification for these positions).

#### **4. Recordkeeping**

The EEO rules require station employment units to retain documentation concerning their compliance with the recruitment requirements, the obligation to notify community groups of job vacancies, and performance of the requisite number of outreach activities from the menu of options. This

documentation must be retained by the station but will not be routinely submitted to the Commission except in the event of an investigation or audit.

Stations must maintain the following records in a *non-public* EEO file:

1. Listings of all full-time job vacancies filled by the station, identified by job title;
2. For each such vacancy, the recruitment sources used to fill the vacancy, identified by name, address, contact person and telephone number (including separate identification of organizations that have asked to be notified of job vacancies);
3. Dated copies of all advertisements, bulletins, letters, faxes, emails, or other communications announcing vacancies;
4. The total number of interviewees for each vacancy and the referral source for each interviewee;
5. The date each vacancy was filled and the recruitment source that referred the hiree; and
6. Documentation necessary to demonstrate performance of outreach activities required under the menu options—not only must this documentation verify that some activity occurred, but it must also fully disclose the nature of the activity and the scope of the broadcaster's participation in it, and identify the station personnel involved.

To assist you in maintaining the required records, you may wish to use the instructions and forms attached as Exhibit C. These forms should be retained in a *private* EEO file, *not in the public inspection file*. Stations are required to retain their EEO records for at least the entire duration of their current license terms.

The FCC's EEO rules do *not* require stations to maintain data concerning the race, ethnicity, gender, or any other demographic characteristic of their applicants. Also, stations are not required to retain records of the recruitment sources of *applicants*—such records are only required for *interviewees* and *hirees*.

As discussed earlier, religious broadcasters that apply a religious qualification to some or all of their hires only need to retain, for such hirees subject to the religious qualification, documentation as to the full-time vacancies filled, the recruitment sources used, the date each vacancy was filled, and the recruitment sources of the hirees.

## **5. Self-Assessment**

The EEO rules require broadcasters to engage in ongoing efforts to analyze the productivity of their recruitment efforts in achieving broad outreach to all segments of the community. Stations must assess the relevant data concerning their recruitment efforts and make modifications if necessary. Not only could modifications include adding new recruitment sources, but they could also include developing better relationships with unproductive sources.

In addition to assessing broad outreach, stations must also periodically analyze their EEO measures, including such areas as EEO program information dissemination, seniority practices, pay and benefits, promotions, and selection techniques, to ensure they are nondiscriminatory. In the course of an FCC EEO audit, the FCC requires stations to provide information about these assessment practices.



## D. Reporting Requirements

In addition to engaging in recruitment, outreach, recordkeeping, and self-assessment measures, the EEO rules also require station employment units to comply with certain reporting requirements. Stations are required to place certain EEO program information in their public inspection files every year and make periodic EEO filings with the FCC. Please refer to Exhibit B for a list of the critical filing dates for Ohio broadcasters.

If there is a substantial change of ownership between required EEO filings, the new licensee must only report data concerning recruitment efforts and outreach activities conducted during the period it controlled the station. Also, if a station is subject to a time brokerage agreement, the licensee's EEO filings should only include data concerning *its own recruitment efforts and not the efforts of the broker*. However, as noted above in Section II.A, if a licensee is a broker of another station or stations, its recruitment activity concerning full-time positions at the brokered station should be included along with the data of its station that is most closely affiliated with, and in the same market as, the brokered station. If the brokered station is not in the same market as one of the licensee's stations, the licensee's recruitment data from the brokered station should be included along with the data of its station that is geographically closest to the brokered station.

### 1. Public Inspection File

Every year, on the anniversary of the date that a station is due to file its renewal application, it must place in its public file an annual EEO Public File Report. For Ohio television and radio stations, this deadline is June 1 of every year. Accordingly, as of August 2018, full-power FM, AM, and TV stations, and Class A TV stations are required to upload the report to the FCC's online public file system and place it in the applicable "EQUAL EMPLOYMENT OPPORTUNITY RECORDS" folder under "ADDITIONAL DOCUMENTS" for each station in the station's employment unit. Annual EEO Public File Reports must remain in each station's public file for the duration of the license term.

If a station has a website, the station must *post its EEO Public File Report on that site at the same time that it places the Report in the station's public file*. To be clear, the station website posting requirement is *in addition* to the online public file requirement. Only the most recent annual EEO Public File Report must be posted on the station's own website.

Broadcasters are free to use any format for their EEO Public File Report, so long as the report clearly provides the following information:

- (1) A list of all full-time vacancies filled by the station during the preceding year, identified by job title;
- (2) For each such vacancy, the recruitment source(s) used to fill the specific vacancy (including, if applicable, organizations that request notification of vacancies, which should be separately identified as such), including the address, contact person, and telephone number of each source;
- (3) The recruitment source that referred the hiree for each full-time vacancy;
- (4) Data reflecting the total number of persons interviewed for full-time vacancies during the preceding year and, for each recruitment source used in connection with any such vacancies, the total number of interviewees referred by that source; and

- (5) A list and brief description of menu option outreach activities undertaken during the preceding year.

Attached as Exhibit D is a model EEO Public File Report that you may use to create your employment unit's reports. As noted above, any format is acceptable, so long as the report contains all the required information.

In addition to placing an EEO report in the public inspection file, licensees are required routinely to file their reports with the FCC in two instances. First, the EEO Public File Reports covering the two years preceding the filing of a renewal application must be submitted along with FCC Form 396, which is submitted simultaneously with the filing of the renewal application. Second, for licensees subject to mid-term reviews (all TV stations and radio stations with more than ten full-time employees), reports for the two years preceding the mid-term review must be filed with the Commission. The renewal and mid-term review filings are discussed in greater detail below.

In the case of a group of commonly owned stations in the same market that share at least one employee (i.e., a station employment unit), one EEO Public File Report may be prepared and filed for the entire unit. Where such a same-market group contains stations licensed to communities in more than one state with different renewal dates, the FCC requires the group to proceed in accordance with the two-year filing schedule for only one of the stations in the group in accordance with the following criteria:

- If the group includes a TV station, the dates for the TV station should be used.
- Apart from the above situation, the renewal date should be selected so as to minimize the time between the EEO Public File Report date and the date for the filing of renewal applications for stations located in renewal groups that have different renewal dates than that used to determine the EEO Public File Report date.

While low power television ("LPTV") stations are subject to the broadcast EEO rules, LPTV stations are not required to maintain a public file. Thus, the FCC does not expect LPTV stations to prepare an EEO Public File Report; however, LPTV stations with five or more full-time employees must comply with the recordkeeping requirements discussed in Section C.4 above. Class A television stations are subject to the requirement to maintain a public file and are fully subject to the EEO rules, including (if applicable) the EEO Public File Report requirement. Religious broadcasters with hirees subject to a religious qualification need to include, for full-time vacancies subject to the qualification, only the information called for in (1), (2), and (3) above.

## **2. Mid-Term Report—FCC Form 397**

Pursuant to the Communications Act, the FCC is required to review the EEO practices of television stations at the middle point of their license terms. The FCC's EEO rules have extended this mid-term review to radio stations with more than ten full-time employees.

Accordingly, four years after the date the most recent renewal application was due to be filed, all television stations (regardless of number of employees) and radio stations with more than ten full-time employees, must file with the FCC a Mid-Term Report on FCC Form 397. This filing must include the station's EEO Public File Reports covering recruitment activity for full-time positions and menu option activity during the previous two-year period. Mid-term reviews will be based on review of the Form 397 and the data in the station's EEO Public File Reports.

As of August 7, 2018, the FCC has an open proceeding that proposes to eliminate the FCC Form 397 mid-term filing requirement. With one exception, the information that stations provide on Form 397 is already also available in stations' public inspection files. As such, the elimination of the Form 397 filing requirement is consistent with the FCC's ongoing effort to modernize media regulations by revising or eliminating rules that are unnecessary or unduly burdensome. Note: Even if Form 397 is eliminated, the

FCC will continue to conduct mid-term reviews of the employment practices of stations with the requisite number of employees; because the Communications Act requires the Commission to conduct such reviews, the FCC cannot eliminate that process outright.

### **3. Broadcast EEO Program Report—FCC Form 396**

Every eight years, at the end of the license term, stations are required to file, along with their renewal application, a Broadcast EEO Program Report on Form 396. In this filing, stations must indicate whether they have complied with the outreach provisions of the current EEO rules. Stations must also report the existence and details of any discrimination complaints filed against the station during the license term.

As part of the Form 396, each station must attach a copy of its EEO Public File Reports covering recruitment activity for full-time positions during the previous two-year period. Also, each station must provide a narrative statement describing how the station achieved broad and inclusive outreach and explain any difficulties experienced concerning its outreach efforts and its efforts to overcome those problems.

Stations with fewer than five employees are also required to submit FCC Form 396 with their license renewal applications. However, such stations are only required to report the existence and details of any discrimination complaints and complete a certification of exemption.

### **4. Annual Employment Report—Form 395-B**

The EEO Annual Employment Report, FCC Form 395-B, generally requires broadcasters to file statistics regarding certain categories of employees and their race and/or ethnicity. The report was suspended in 2001, but more recently it has been reconsidered and revised by the FCC. In August 2008, following a public comment period, the FCC announced its decision to incorporate into Form 395-B the Equal Employment Opportunity Commission's ("EEOC") revised racial and employment categories. The FCC then submitted the revised form for review and approval by OMB, even though the FCC had not determined whether or not broadcasters would be allowed to submit the form on a confidential basis. After receiving public comment on the revised Form 395-B data collection, OMB approved Form 395-B as revised, but it explicitly directed the FCC—before it begins using or collecting information with the form—to decide whether the data collected from each Form 395-B will be held confidential. As of August 2018, the Commission has not yet made a decision regarding confidential filing of FCC Form 395-B. Thus, as of August 7, 2018, the requirement that broadcast stations file FCC Form 395-B remains suspended.

The FCC has emphasized that when the Form 395-B filing requirement is reinstated, the information reported will not be used to screen renewal applications or evaluate EEO compliance.

### **5. Model EEO Program—Form 396-A**

Any original construction permit, assignment, or transfer applicant that proposes to be part of an employment unit that will employ five or more full-time employees must file a Model EEO Program on Form 396-A contemporaneously with original construction permit, assignment, or transfer application. On Form 396-A, applicants must propose the recruitment measures that they believe will achieve wide dissemination and be productive in generating qualified applicants whenever full-time vacancies occur.

## **IV. Enforcement**

### **A. Overview**

The FCC's EEO rules are typically enforced at a few specific times. First, the FCC reviews a station's Form 396 and EEO Public File Reports during consideration of the station's license renewal application. Second, the annual EEO Public File Reports (for television stations with at least five full-time employees and for radio stations with more than ten full-time employees) are reviewed by the FCC as part

of the Form 397 filing at mid-term—four years into a station's license term. As noted above, as of August 7, 2018, the FCC has an open proceeding that proposes to eliminate the FCC Form 397 midterm filing requirement. However, even if Form 397 is eliminated, the FCC will continue to conduct midterm reviews of the employment practices of stations with the requisite number of employees.

Third, in addition to the renewal and midterm reviews, the FCC performs random EEO audits. Each year, the FCC randomly selects for audit approximately five percent of all licensees in the radio and television services with both services proportionately represented in the audit pool. Finally, the public may file complaints based on a station's Form 396 or 397 or the contents of a station's public file. The public may also file an informal objection or petition to deny an application based on alleged EEO violations. If the FCC has evidence of a possible violation of the EEO rules, it may conduct an inquiry of a licensee. The FCC may also conduct an inquiry at random. An FCC inquiry could include a request for data *covering any period of the license term* and interview of witnesses, including any present or former station employees.

Stations are subject to a variety of sanctions and remedies for violation of the EEO rules. For example, such violations might include the following:

- Engaging in discrimination;
- Failure to recruit for all vacancies absent exigent circumstances;
- Failure to widely disseminate information concerning vacancies for full-time positions;
- Failure to analyze routinely the adequacy of the various program elements in achieving broad outreach to all segments of the community;
- Failure to maintain required records;
- Failure to file a Form 397 when due (the Form 397 filing requirement is contingent on the results of a proceeding that remains open as of August 7, 2018);
- Failure to file an EEO Public File Report when due;
- Failure to file Form 396 when due;
- Misrepresentation of outreach efforts or other information;
- Non-responsiveness or evasion in responding to a written Commission inquiry.

FCC sanctions and remedies for deficiencies in licensees' EEO compliance include admonishments, reporting conditions, monetary penalties, short-term renewal of license, and designation for hearing for possible revocation of license or denial of renewal. The FCC determines the appropriate sanction or remedy on a case-by-case basis.

The FCC, in July 2018, proposed to move the agency staff responsible for enforcing EEO rules from the Media Bureau to the Enforcement Bureau. Initially, moving EEO oversight to the Enforcement Bureau will not affect current EEO rules or the general EEO enforcement procedures used by the Commission staff. The Enforcement Bureau specializes in enforcement and has expertise in those procedures, however, and it is possible that the move will eventually lead to substantive changes and/or more vigorous enforcement of the FCC's EEO rules.

## B. Random Compliance Audits

As noted above, each year, the FCC randomly selects for audit approximately five percent of all licensees in the radio and television services, with both services proportionately represented in the audit pool. In 2018, the FCC sent audit letters to broadcasters in February and June.

An EEO audit begins when the FCC sends an audit letter to a randomly selected station. (A sample copy of the FCC audit letter issued in June 2018 is attached as [Exhibit E](#).) Generally, the letter requires the station's employment unit to respond within six weeks to questions about the station's employment practices and the station's compliance with specific components of the FCC's EEO rules. The FCC also requires the station employment unit to provide copies of documents demonstrating its compliance with the rules—i.e., records that are required to be maintained by the station in its *private* EEO file. Below are some examples of the information a typical audit letter requests:

- The employment unit's two most recent EEO Public File Reports and the website address(es) where the current EEO Public File Report is posted (if the stations in the unit have a website).
- For each full-time position filled during the period covered by the two most recent EEO Public File Reports (or since the licensee's acquisition of the station, if after that period), dated copies of all advertisements, bulletins, letters, faxes, e-mails, or other communications announcing the position. Relatedly, the station is required to include copies of all job announcements sent to any organization (identified separately from other sources) that has notified the station that it wants to be notified of job openings.
- The total number of interviewees for each vacancy and the referral source for each interviewee for all full-time employment unit vacancies filled during the period covered by the two most recent annual EEO Public File Reports.
- Documentation demonstrating performance of outreach initiatives during the periods covered by the annual EEO Public File Reports.
- Disclosure of any pending or resolved complaints involving the station filed during the station's current license term before any body having competent jurisdiction under federal, state, territorial, or local law, alleging unlawful discrimination in the employment practices of the station on the basis of race, color, religion, national origin, or sex. If any such complaints exist, the response must provide details related to those complaints.
- For the period from from the first day of the station's current license term, until the date of the audit letter, a description of the responsibilities of each level of station management to ensure enforcement of EEO policies and describe how the station has informed employees and job applicants of its EEO policies and program.
- For the period from the first day of the station's current license term until the date of the audit letter, a description of the station's efforts to analyze its EEO recruitment program to ensure that it is effective and address any problems found as a result of such analysis.
- For the period from the first day of the station's current license term, until the date of the letter, a description of the station's efforts to analyze periodically its measures taken to examine pay, benefits, seniority practices, promotions, and selection techniques and tests to ensure that they provide equal opportunity and do not have a discriminatory effect. If the station has one or more union

agreements, the response must describe how the station cooperates with each union to ensure EEO policies are followed for the station's union-member employees and job applicants.

The list of information requested above is extensive and requires significant effort in order to respond appropriately. Gathering the information needed to respond can be a challenge when a station or employment unit has not maintained in an organized fashion all the necessary records to demonstrate compliance with the EEO rules. And, as noted above, in addition to questions related to recruitment and outreach, audited stations must respond to questions concerning EEO program evaluation and self-assessment. Because the FCC has authority to fine stations and impose additional reporting obligations if violations are uncovered, it is important to keep all necessary records and monitor EEO compliance on an ongoing basis to ensure your station is prepared to respond to a random audit.

## **C. Representative EEO Enforcement Actions**

Below, the discussion of several FCC enforcement actions that arose in the context of both random EEO audits and license renewals illustrates how the FCC enforces its EEO rules and the penalties it imposes for non-compliance.

The EEO deficiencies allegedly committed by the employment units in these cases primarily relate to findings of unsatisfactory recruitment for job vacancies, insufficient performance of outreach initiatives, and inadequate EEO program evaluation. Here are the highlights of several EEO enforcement decisions.

### **1. Admonishment**

In July 2018, the FCC determined that a licensee failed to provide notification of each full-time vacancy to an organization that had requested such notice. This deficiency came to the FCC's attention in the course of a random EEO audit. Specifically, the licensee failed to notify the organization of four out of the twenty-six vacancies in 2017 and four out of fourteen vacancies in 2018. Because the licensee self-reported the violation, had notified the organization of 80% of its vacancies during the audit reporting period, and had in 2014, 2015, and 2016 notified that organization of 100% of its full-time vacancies, the FCC found that an admonishment, rather than a monetary fine, was an appropriate sanction.

### **2. \$20,000 Fine and Additional Reporting Requirements**

In December 2017, an employment unit comprised of five stations was fined \$20,000 following a random EEO audit because the station repeatedly failed to comply with the recruitment, self-assessment, recordkeeping, reporting, and public file requirements.

The FCC found that the unit did not recruit for six of its eleven full-time vacancies over a two-year period, as the unit solely relied on word-of-mouth referrals for several positions and could not identify other recruitment sources. Additionally, the unit failed to track the recruitment source of its interviewees for ten of the eleven full-time vacancies. Because it did not maintain proper records, it was unable to provide the total number of interviewees or the number of interviewees referred by each recruitment source.

The unit also failed to notify an organization that had requested notification of vacancies of seven of its 11 full-time hires during the reporting period. The FCC found that, due to its lack of required records, the unit could not have been engaging in self-assessment of its recruiting program to ensure that it was effective in achieving broad public outreach and that it was unable to put adequate information in its public inspection files.

The FCC originally determined that a \$16,000 fine was appropriate, but because the unit had a history of violations of EEO rules, the FCC upwardly adjusted the penalty to \$20,000. Further, the FCC imposed a requirement that the unit provide copies of EEO records to the FCC annually for a three-year period.

### **3. \$5,000 and \$9,000 Fines and Additional Reporting Requirements**

In December 2014, the FCC imposed fines of \$5,000 and \$9,000, respectively on two radio licensees. In both cases, the FCC found that the stations failed to engage in wide dissemination of full-time vacancy notices.

In the first case, the licensee only publicly recruited for three out of six vacancies, and for three vacancies only relied on walk-ins and client/employee referrals. Based on the recruitment failure, the FCC inferred that the licensee did not adequately analyze its recruitment program to ensure that it was effective in achieving broad public outreach. These violations resulted in a \$5,000 fine and a requirement that the licensee annually (for three years) submit copies of certain EEO records to the FCC.

In the second case, the licensee failed to widely recruit for four out of thirteen full-time vacancies, and instead only relied on its own website, walk-ins, and word-of-mouth referrals. Further, the licensee failed to provide notification of eight of its full-time vacancies to all organizations that had requested such notice. For five vacancies, the licensee did not provide notification to two organizations that requested vacancy notification, and for three vacancies, the licensee failed to notify one organization. As a result of these violations, the FCC fined this licensee \$9,000 and imposed a three-year reporting requirement.

### **4. Two \$20,000 Fines and Additional Reporting Requirements**

In December 2013, the FCC fined two licensees \$20,000 each—and imposed three-year reporting obligations—in connection with their respective failures to send full-time vacancy notices to organizations that requested to receive such notices. These violations were discovered in the course of random EEO audits.

In one of these cases, the licensee asserted in its initial audit response that it did not receive any requests from organizations that wished to be notified of vacancies. However, in its EEO Public File Report, the licensee identified one such organization and claimed that it was notified of all vacancies. The FCC determined that the station not only failed to provide notification of each full-time vacancy to requesting organizations, but also that the licensee provided incorrect information to the FCC without a reasonable basis for believing that the information was true and accurate.

In the second case, the licensee filled thirty-six full-time vacancies and failed to provide notification of thirty-three of these vacancies of all organizations that had requested notification of such vacancies. For one vacancy, the licensee failed to provide notification to three organizations; for two job listings, the licensee failed to notify twenty organizations; for two vacancies, the licensee did not notify six organizations; for four vacancies, the licensee failed to provide notification to two organizations that requested vacancy notification; for six vacancies, the licensee failed to provide notification to four organizations; and for eighteen vacancies, the licensee failed to provide notification to twenty-one organizations that had requested vacancy notification.

## **D. Lessons to Learn**

There are several broad principles that stations should learn from these and other representative enforcement actions:

- Reliance by a station on employee referrals, its own private contacts, and/or walk-in applicants does not constitute widespread recruitment; public outreach that is reasonably calculated to reach the station's entire community is required by the FCC's EEO rules.
- Stations should make sure to keep track of organizations that request to be notified of full-time job vacancies and should ensure that they are notifying those organizations when a vacancy arises.

- The FCC enforces the self-assessment provisions of the EEO rules. Stations should make it a special point of emphasis to evaluate and discuss their EEO programs and the successes or failures of particular recruitment sources and techniques and outreach activities. Ongoing or repeated EEO rule violations demonstrate, in the FCC's eyes, failure to perform adequate EEO program assessment.
- Maintenance of sufficient EEO records is critical to demonstrating compliance with the FCC's EEO rules. Not only do those records substantiate adequate recruitment practices and performance of outreach initiatives, but also those records are required to be maintained in their own right—in other words, failure to maintain records may result in findings of EEO violations. At a minimum, we suggest that stations maintain in their private files (i) a hard copy of each job vacancy notification along with a copy of the addresses of those to whom U.S. postal notifications were sent, and (ii) in the case of e-mail, a hard copy of the transmitted e-mail along with a hard copy of the job vacancy notification (i.e., a hard copy of the electronic attachment). Additionally, stations should maintain in their private files completed registration forms, brochures, agendas, letters confirming attendance, and any other documents that demonstrate participation in outreach initiatives—we suggest collecting these documents contemporaneously with the performance of the activities rather than waiting on an audit letter or the station's EEO annual public file report deadline.

## **V. Conclusion**

The FCC's EEO rules are detailed and involve many complexities. It is our hope that this guide will assist you in ensuring your station's compliance with these rules. If you should have any questions concerning the information discussed in this guide or any other aspects of the FCC's EEO rules, please contact your communications counsel or the OAB's FCC hotline at 888.705.0678.

\* \* \* \* \*



**EXHIBIT A**

**FCC EEO PROGRAM  
COMPLIANCE CHECKLIST FOR OHIO  
BROADCASTERS**



## FCC EEO PROGRAM COMPLIANCE CHECKLIST FOR OHIO BROADCASTERS

- ✓ If your station has fewer than 5 full-time employees (a full-time employee is one who regularly works 30 hours or more per week) and your station is not part of a group of commonly owned stations in the same market that, together, have 5 or more full-time employees and share at least 1 employee, your station is exempt from the FCC's EEO program requirements—but you are still responsible for compliance with the nondiscrimination rule.
  
- ✓ If your station has 5 or more full-time employees, you must:
  - ✓ Establish and maintain a general EEO program. Under the program, your station must:
    1. Define the responsibility of each level of management to ensure vigorous enforcement of its EEO policies and establish a procedure to review and control managerial and supervisory performance;
    2. Inform its employees and recognized employee organizations of the EEO policies and program and enlist their cooperation in adhering to the policies and program;
    3. Communicate its EEO policies and program and its employment needs to sources of qualified applicants without regard to race, color, religion, national origin, or sex, and solicit their recruitment assistance on a continuing basis;
    4. Conduct a continuing program to exclude all unlawful forms of prejudice or discrimination based upon race, color, religion, national origin, or sex from its personnel policies and practices and working conditions; and
    5. Conduct a continuing review of job structure and employment practices and adopt positive recruitment, job design, and other measures needed to ensure genuine equality of opportunity to participate fully in all organizational units, occupations, and levels of responsibility.
  
  - ✓ Recruit for all full-time vacancies by *widely disseminating* information concerning all full-time openings using a list of recruitment sources sufficient to ensure wide dissemination of information about the opening to the station's entire community (except in rare exigent circumstances).

*Note:* Religious broadcasters that apply a religious qualification to all employees are not subject to the widespread recruitment requirement, but they must make reasonable, good faith efforts to recruit applicants, without regard to race, color, national origin or gender, among those candidates who are qualified based on their religious belief or affiliation. Religious broadcasters that have "non-religious" full-time positions (i.e., there is no religious qualification for these positions) are required to comply with the widespread recruitment requirement with respect to those non-religious positions.
  
  - ✓ Provide job vacancy notifications to organizations requesting such notice.

*Note:* Religious broadcasters that apply a religious qualification to all employees are not required to provide such notice. Religious broadcasters that have "non-religious" full-time positions (i.e., there is no religious qualification for these positions) are required to provide job vacancy notifications to organizations requesting such notice with respect to those non-religious positions.
  
  - ✓ Every 2 years, engage in 4 of the following specific outreach efforts if your station has more than 10 full-time employees and is not located in a "smaller market," or engage in 2 of the following specific outreach efforts if your station has 5 to 10 full-time employees or is located in a "smaller market":

1. Participation in at least four job fairs by station personnel who have substantial responsibility in making hiring decisions;
2. Hosting of at least one job fair;
3. Co-sponsoring of at least one job fair with organizations in the business and professional community whose membership includes substantial participation by women and minorities;
4. Participation in at least four events, including conventions, career days, workshops, and similar activities, sponsored by organizations representing groups present in the community interested in broadcast employment issues;
5. Establishment of an internship program designed to assist members of the community to acquire skills needed for broadcast employment;
6. Participation in job banks, Internet programs, and other programs designed to promote outreach generally (i.e., outreach that is not primarily directed to providing notification of specific job vacancies);
7. Participation in scholarship programs designed to assist students interested in pursuing a career in broadcasting;
8. Establishment of training programs designed to enable station personnel to acquire skills that could qualify them for higher level positions;
9. Establishment of a mentoring program for station personnel;
10. Participation in at least four events or programs sponsored by educational institutions relating to career opportunities in broadcasting;
11. Sponsorship of at least two events in the community designed to inform and educate members of the public about employment opportunities in broadcasting;
12. Listing of each upper-level category opening in a job bank or newsletter of media trade groups whose membership includes substantial participation by women and minorities;
13. Provision of assistance to unaffiliated non-profit entities in the maintenance of websites that provide counseling on the process of searching for broadcast employment and/or other career development assistance pertinent to broadcasting;
14. Provision of training to management level personnel as to methods of ensuring equal employment opportunity and preventing discrimination;
15. Provision of training to personnel of unaffiliated non-profit organizations interested in broadcast employment opportunities that would enable them to better refer job candidates for broadcast positions;
16. Participation in other activities designed by the station reasonably calculated to further the goal of disseminating information as to employment opportunities in broadcasting to job candidates who might otherwise be unaware of such opportunities.

*Note:* Religious broadcasters who apply a religious qualification to all employees are not required to complete any of the above outreach initiatives. The outreach requirements *do* apply to religious broadcasters who employ 5 or more full-time employees in “non-religious” full-time positions (i.e., there is no religious qualification for these positions).



Maintain the following records:

1. Listings of all full-time job vacancies filled by the station, identified by job title;
2. For each such vacancy, the recruitment sources used to fill the vacancy, identified by name, address, contact person and telephone number (including separate identification of organizations that have asked to be notified of job vacancies);
3. Dated copies of all advertisements, bulletins, letters, faxes, e-mails, or other communications announcing vacancies (*Note:* this requirement does not apply to religious broadcasters who apply a religious qualification to all employees);
4. Documentation necessary to demonstrate performance of activities required under the menu options, such as participation in job fairs—not only must this

documentation verify that some activity occurred, but it must also fully disclose the nature of the activity and the scope of the broadcaster's participation in it, and identify the station personnel involved (*Note: this requirement does not apply to religious broadcasters who apply a religious qualification to all employees*);

5. The total number of interviewees for each vacancy and the referral source for each interviewee (*Note: this requirement does not apply to religious broadcasters who apply a religious qualification to all employees*); and
  6. The date each vacancy was filled and the recruitment source that referred the hiree.
- ✓ Create an annual EEO Public File Report by its due date each year (June 1 for Ohio broadcasters) to upload to the station's online public file (and post to the station's own website) containing the following information:
1. A list of all full-time vacancies filled by the station during the preceding year, identified by job title;
  2. For each such vacancy, the recruitment source(s) used to fill the specific vacancy (including, if applicable, organizations that request notification of vacancies, which should be separately identified as such), including the address, contact person, and telephone number of each source;
  3. The recruitment source that referred the hiree for each full-time vacancy;
  4. Data reflecting the total number of persons interviewed for full-time vacancies during the preceding year and, for each recruitment source used in connection with any such vacancies, the total number of interviewees referred by that source (*Note: this requirement does not apply to religious broadcasters who apply a religious qualification to employees*); and
  5. A list and brief description of menu option outreach activities undertaken during the preceding year (*Note: this requirement does not apply to religious broadcasters who apply a religious qualification to employees*).
- ✓ Engage in ongoing efforts to analyze the productivity of your recruitment efforts in achieving broad outreach to all segments of the community. You must assess the relevant data concerning your recruitment efforts and make modifications if necessary.
- ✓ Analyze your EEO measures, including such areas as EEO program information dissemination, seniority practices, pay and benefits, promotions, and selection techniques, to ensure they are nondiscriminatory.
- ✓ For television stations regardless of number of employees and radio stations with more than 10 full-time employees, you must file with the FCC a Mid-Term Report on FCC Form 397 (the Form 397 filing requirement is contingent on the results of a proceeding that remains open as of August 7, 2018).
- ✓ File an EEO Program Report (FCC Form 396) along with your license renewal application.
- ✓ File an Annual Employment Report (FCC Form 395-B) by September 30 of each year. (This requirement is currently suspended, as of August 2018.)
- ✓ Retain all of your station's records concerning EEO compliance for at least the entire duration of the station's current license term.

\* \* \* \* \*



## **EXHIBIT B**

# **CRITICAL DATES FOR COMPLIANCE WITH THE FCC'S CURRENT EEO RULES FOR OHIO BROADCASTERS**





## CRITICAL DATES FOR COMPLIANCE WITH THE FCC'S CURRENT EEO RULES FOR OHIO STATIONS (For Current License Terms)

### OHIO RADIO STATIONS

- **June 1 of every year:** Place your EEO Public File Report covering the prior year in your station's public inspection file and, if the station has a website, post the report on that site.\*
- **September 30 of every year:** File an Annual Employment Report (FCC Form 395-B) with FCC. Do not put the report in your public inspection file. (This requirement is currently suspended.)†
- **June 1, 2020:** Along with station's license renewal application, file a Broadcast EEO Program Report (FCC Form 396) with the FCC and include EEO Public File Reports from the last 2 years.†
- **October 1, 2020:** License Expiration.
- **June 1, 2024:** Radio stations with more than ten full-time employees must file a Mid-Term Report (FCC Form 397) with the FCC and include EEO Public File Reports from the last 2 years (the Form 397 filing requirement is contingent on the results of a proceeding that remains open as of August 7, 2018).†
- **June 1, 2028:** Along with station's license renewal application, file a Broadcast EEO Program Report (FCC Form 396) with the FCC and include EEO Public File Reports from the last 2 years.†
- **October 1, 2028:** License Expiration.

### OHIO TELEVISION STATIONS

- **June 1 of every year:** Upload your EEO Public File Report covering the prior year to your station's online public inspection file and, if the station has a website, post the report on that site.\*
- **September 30 of every year:** File an Annual Employment Report (FCC Form 395-B) with FCC. Do not put the report in your public inspection file. (This requirement is currently suspended.)†
- **June 1, 2021:** Along with the station's license renewal application, file a Broadcast EEO Program Report (FCC Form 396) with the FCC and include EEO Public File Reports from the last 2 years.†
- **October 1, 2021:** License Expiration.
- **June 1, 2025:** File a Mid-Term Report (FCC Form 397) with the FCC and include EEO Public File Reports from the last 2 years (the Form 397 filing requirement is contingent on the results of a proceeding that remains open as of August 7, 2018).†
- **June 1, 2029:** Along with station's license renewal application, file a Broadcast EEO Program Report (FCC Form 396) with the FCC and include EEO Public File Reports from the last 2 years.†
- **October 1, 2029:** License Expiration.

---

\* This requirement does not apply to stations with fewer than five full-time employees.

† Stations with fewer than five full-time employees need only certify that they have fewer than five full-time employees.



**EXHIBIT C**

**INSTRUCTIONS AND FORMS FOR  
MAINTAINING A STATION'S PRIVATE EEO FILE**



## INSTRUCTIONS AND FORMS FOR MAINTAINING A STATION'S PRIVATE EEO FILE

The FCC's current EEO rules require each broadcast station to maintain certain records concerning its EEO efforts for the duration of the station's current license term.

It is important to note that the information you collect pursuant to these instructions must be retained in a **private** EEO file—**not the public inspection file**. The information you collect, however, will be used in preparing the station's annual EEO Public File Report. The information contained in the station's private EEO file may also be reviewed by the FCC during a station inspection or upon request pursuant to an inquiry; including a random EEO audit.

Your station's private EEO file should be organized as follows:

**FULL-TIME JOB VACANCIES LIST:** The first folder in your private EEO file should be labeled *FULL-TIME JOB VACANCIES LIST* and should contain a consistently updated list of all full-time job vacancies that are filled by the station during the station's current license term. This list should be updated every time a vacancy either opens up or is filled. You may use the attached **Form BP-01** for this list.

**MENU OPTION ACTIVITIES:** The second folder in your private EEO file should be labeled *MENU OPTION ACTIVITIES* and should contain documentation concerning all menu option outreach activities engaged in by the station during the station's current license term. You may use the attached **Form BP-02** for each outreach activity.

**INDIVIDUAL VACANCY INFORMATION:** For each individual vacancy filled by the station during the station's current license term, you should create a folder for the private EEO file. Each folder should be labeled *EEO INFORMATION FOR [INSERT JOB TITLE], [INSERT DATE OPENED]* and should contain the following forms which are attached to these instructions:

1. **Form BP-03, "FULL-TIME VACANCY EEO INFORMATION":** For each full-time vacancy, list the recruitment sources used to fill the vacancy and the total number of interviewees for each vacancy. This list is similar to the list the station is required to use in its EEO Public File Report.
2. **Form BP-04, "INTERVIEWEE INFORMATION":** For each full-time vacancy, list the interviewees and the referral source for each interviewee.
3. **Form BP-05, "VACANCY NOTIFICATIONS":** For each full-time vacancy, attach copies of all vacancy notifications to this form.

\* \* \* \* \*

**FULL-TIME JOB VACANCIES LIST – Form BP-01**

Current License Term: \_\_\_\_\_

Job Title	Date Opened	Date Filled	Hiree's Name	Recruitment Source that Referred the Hiree

\*\*\*\* Use additional pages as needed. *Do Not Put in Public File.* \*\*\*\*

## MENU OPTION ACTIVITIES – Form BP-02

Type of Activity: \_\_\_\_\_

Activity Classification\*: \_\_\_\_\_

**Nature of the Activity, Including Date(s) and Location(s):**

**Description of Station's Involvement and Participation:**

**Titles of Station Personnel Involved:**

***Attach all documentation concerning the nature of the activity, the description of the station's involvement and participation, and the station personnel involved.***

\* For "Activity Classification" use numbers "1" through "16" in accordance with the following:

1. Participation in at least four job fairs by station personnel who have substantial responsibility in making hiring decisions;
2. Hosting of at least one job fair;
3. Co-sponsoring of at least one job fair with organizations in the business and professional community whose membership includes substantial participation by women and minorities;
4. Participation in at least four events, including conventions, career days, workshops, and similar activities, sponsored by organizations representing groups present in the community interested in broadcast employment issues;
5. Establishment of an internship program designed to assist members of the community to acquire skills needed for broadcast employment;
6. Participation in job banks, Internet programs, and other programs designed to promote outreach generally (i.e., outreach that is not primarily directed to providing notification of specific job vacancies);
7. Participation in scholarship programs designed to assist students interested in pursuing a career in broadcasting;
8. Establishment of training programs designed to enable station personnel to acquire skills that could qualify them for higher level positions;
9. Establishment of a mentoring program for station personnel;
10. Participation in at least four events or programs sponsored by educational institutions relating to career opportunities in broadcasting;
11. Sponsorship of at least two events in the community designed to inform and educate members of the public about employment opportunities in broadcasting;
12. Listing of each upper-level category opening in a job bank or newsletter of media trade groups whose membership includes substantial participation by women and minorities;
13. Provision of assistance to unaffiliated non-profit entities in the maintenance of websites that provide counseling on the process of searching for broadcast employment and/or other career development assistance pertinent to broadcasting;
14. Provision of training to management level personnel as to methods of ensuring equal employment opportunity and preventing discrimination;
15. Provision of training to personnel of unaffiliated non-profit organizations interested in broadcast employment opportunities that would enable them to better refer job candidates for broadcast positions;
16. Participation in other activities designed by the station reasonably calculated to further the goal of disseminating information as to employment opportunities in broadcasting to job candidates who might otherwise be unaware of such opportunities.

\*\*\*\*\* DO NOT PUT IN PUBLIC FILE \*\*\*\*\*

**FULL-TIME VACANCY EEO INFORMATION – Form BP-03**  
**[Fill out for each full-time vacancy]**

Job Title of Vacancy: \_\_\_\_\_ Recruitment Source That Referred the Hiree: \_\_\_\_\_

Date Vacancy Opened: \_\_\_\_\_ Total Number of Persons Interviewed for the Vacancy: \_\_\_\_\_

Date Vacancy Filled: \_\_\_\_\_

**Recruitment Sources Used to Fill the Vacancy**

Name of Recruitment Source	Address	Contact Person	Telephone Number	Total Number of Interviewees Referred by the Source for the Vacancy	Did the Source Request Notification?

\*\*\*\*\* Use additional pages as needed. Do Not Put in Public File unless as part of the station's annual EEO Public File Report. \*\*\*\*\*



# INTERVIEWEE INFORMATION – Form BP-04

Job Title of Vacancy: \_\_\_\_\_

Interview #	Interviewee's Name	Referral Source	Interview #	Interviewee's Name	Referral Source

\*\*\*\*\* Use additional pages as needed. Do Not Put in Public File. \*\*\*\*\*

**VACANCY NOTIFICATIONS – Form BP-05**

**Job Title of Vacancy:** \_\_\_\_\_

**Date Vacancy Opened:** \_\_\_\_\_

**Date Vacancy Filled:** \_\_\_\_\_

Notifications of vacancy information for the above job title were given using the following advertisements, bulletins, letters, faxes, e-mails, or other communications. Dated copies of these notifications are attached to this form.

Type of Notification	Date of Notification	Type of Notification	Date of Notification

\*\*\*\*\* Remember to attach copies of the notifications. Do Not Put in Public File. \*\*\*\*\*

**EXHIBIT D**

**SAMPLE EEO PUBLIC FILE REPORT**



**\*\*\*SPECIMEN\*\*\***

EEO PUBLIC FILE REPORT  
FOR  
STATION [Insert Call Letters &  
City & State of License of Each Station  
in the Employment Unit]

This EEO Public File Report  
Covers the One-Year Period  
Ending on [Insert Date]

\* This specimen may be used as an aid in creating an employment unit's EEO Public File Report. Each employment unit's report must accurately reflect the station's EEO efforts. An employment unit's report must be placed in each station's public file annually on the anniversary of the date the station is due to file its license renewal application—this is the date that should be referenced throughout the report. For each station in the employment unit that has a website, in addition to being placed in the public file, the employment unit's report must also be posted on each station's website.

## EEO PUBLIC FILE REPORT

This EEO Public File Report is filed in Station [Insert Call Letters]'s public inspection file pursuant to Section 73.2080(c)(6) of the Federal Communications Commission's ("FCC") rules.

During the one-year period ending on [Insert date], the station filled the following full-time vacancies:

[List the job titles of all full-time vacancies that were filled during the relevant year]

The station interviewed a total of [Insert Total Number of Persons Interviewed] people for all full-time vacancies during the period covered in this report.

The following are the recruitment sources used during the period covered in this report and the cumulative number of interviewees referred by each:

Recruitment Source

Total Number of Interviewees Referred

[List all recruitment sources used and the total number of interviewees referred by each]

Attachment A contains the following information for each full-time vacancy:

The recruitment source(s) used to fill each vacancy, identified by name, address, contact person and telephone number;

The recruitment source that referred the hiree for each full-time vacancy;

The total number of persons interviewed for each full-time vacancy; and

The total number of interviewees referred by each recruitment source used in connection with each vacancy.

Attachment B contains a list and brief description of menu option activities undertaken pursuant to the FCC's EEO rules during the time period covered by this report.

\* \* \* \* \*

**ATTACHMENT A**

**EEO INFORMATION FOR FULL-TIME VACANCIES**





**ATTACHMENT B**  
**MENU OPTION ACTIVITIES**



## MENU OPTION ACTIVITIES

Station [Insert Call Letters] has engaged in the following outreach activities during the year covered by this report:

Activity Classification*	Type of Activity	Brief Description

\* For “Activity Classification” use numbers “1” through “16” in accordance with the following:

1. Participation in at least four job fairs by station personnel who have substantial responsibility in making hiring decisions;
2. Hosting of at least one job fair;
3. Co-sponsoring of at least one job fair with organizations in the business and professional community whose membership includes substantial participation by women and minorities;
4. Participation in at least four events, including conventions, career days, workshops, and similar activities, sponsored by organizations representing groups present in the community interested in broadcast employment issues;
5. Establishment of an internship program designed to assist members of the community to acquire skills needed for broadcast employment;
6. Participation in job banks, Internet programs, and other programs designed to promote outreach generally (i.e., outreach that is not primarily directed to providing notification of specific job vacancies);
7. Participation in scholarship programs designed to assist students interested in pursuing a career in broadcasting;
8. Establishment of training programs designed to enable station personnel to acquire skills that could qualify them for higher level positions;
9. Establishment of a mentoring program for station personnel;
10. Participation in at least four events or programs sponsored by educational institutions relating to career opportunities in broadcasting;
11. Sponsorship of at least two events in the community designed to inform and educate members of the public about employment opportunities in broadcasting;
12. Listing of each upper-level category opening in a job bank or newsletter of media trade groups whose membership includes substantial participation by women and minorities;
13. Provision of assistance to unaffiliated non-profit entities in the maintenance of websites that provide counseling on the process of searching for broadcast employment and/or other career development assistance pertinent to broadcasting;
14. Provision of training to management level personnel as to methods of ensuring equal employment opportunity and preventing discrimination;

15. Provision of training to personnel of unaffiliated non-profit organizations interested in broadcast employment opportunities that would enable them to better refer job candidates for broadcast positions;
16. Participation in other activities designed by the station reasonably calculated to further the goal of disseminating information as to employment opportunities in broadcasting to job candidates who might otherwise be unaware of such opportunities.

**EXHIBIT E**

**SAMPLE FCC AUDIT LETTER, JUNE 2018**





Federal Communications Commission  
Washington, D.C. 20554

June 19, 2018

Dear Licensee:

1. In accordance with 47 C.F.R. § 73.2080(f)(4) of the Commission's rules, the station employment unit (the "Unit") that includes your above-referenced station (the "Station") has been randomly selected for an audit of its Equal Employment Opportunity ("EEO") program. A link to Section 73.2080 of the Commission's rules is included for your reference: <https://www.gpo.gov/fdsys/pkg/CFR-2017-title47-vol4/pdf/CFR-2017-title47-vol4-sec73-2080.pdf>. To verify the authenticity of this letter, you may go to the FCC website and view the Public Notice that concerns this audit at: <https://www.fcc.gov/general/equal-employment-opportunity>.

2. If the Unit is not required under our rules to have an EEO recruitment program due to the nature of its full-time workforce (having fewer than five full-time employees, defined as employees regularly assigned to work 30 hours a week or more), you must still respond to this audit letter. However, in your response, you are required to provide only a list of the Unit's full-time employees, identified only by job title (no names should be provided), the number of hours each is regularly assigned to work per week, and a response to Question 3(e) below. Also, in formulating your response, please see Questions 4(a)-(d) below regarding brokers and brokered stations for instructions for situations in which the applicable employment unit has fewer than five full-time employees.

3. **Audit Data Requested.** If the Unit employs five or more full-time employees (and all units, for Question 3(e)), provide the following information, including an explanation regarding any requested information that you are unable to provide:

(a) Copies of the Unit's two most recent EEO public file reports, described in Section 73.2080(c)(6). For any stations in the Unit that have websites, provide each web address. If the Unit's most recent EEO public file report is not included on or linked to on each of these websites, indicate each station involved and provide an explanation of why the report is not so posted or linked, as required by Section 73.2080(c)(6). In accordance with Section 73.2080(c)(5)(vi), provide the date of each full-time hire listed in each report provided. If the unit does not have its own website, but its corporate site contains a link to a site pertaining to the unit, then the unit's most recent EEO public file report must be linked to either the unit's site or the general corporate site, pursuant to 47 C.F.R. § 2080(c)(6).

(b) For each Unit full-time position filled during the period covered by the above EEO public file reports, or since your acquisition of the Station, if after that period, dated copies of all advertisements, bulletins, letters, faxes, e-mails, or other communications announcing the position, as described in Section 73.2080(c)(5)(iii). However, to reduce your burden of responding to this audit, if you have sent a job notice to multiple sources, you may send us only one copy of each such notice, along with a list of the sources to which you have sent the notice. In addition, indicate in your response whether you retain copies of all notices sent to all sources used, as required by Section 73.2080(c)(5)(iii). For on-air ads that aired multiple times, you may send us one log sheet indicating when the ad aired and tell us the other times it aired instead of providing multiple log sheets. Also, tell us whether you have retained all the log sheets for each time the ad aired. We may ask for them for verification, but you need not provide them at this time. Include, however, copies of all

job announcements sent to any organization (identified separately from other sources) that has notified the Unit that it wants to be notified of Unit job openings, as described in Section 73.2080(c)(1)(ii).

(c) In accordance with Section 73.2080(c)(5)(v), the total number of interviewees for each vacancy and the referral source for each interviewee for all full-time Unit vacancies filled during the period covered by the above-noted EEO public file reports.

(d) Documentation of Unit recruitment initiatives described in Section 73.2080(c)(2) during the periods covered by the above-noted EEO public file reports, such as participation at job fairs, mentoring programs, and training for staff. Specify the Unit personnel involved in each such recruitment initiative. Also, provide the total number of full-time employees of the Unit and state whether the population of the market in which any station included in the Unit operates is 250,000 or more. Based upon these two factors, determine and state whether the Unit is required to perform two or four initiatives within a two-year period, pursuant to Sections 73.2080(c)(2) and (e)(3). If you have performed more than four initiatives, you may provide documentation for only four and summarize the rest instead of providing documentation for all of them. If we believe any of the initiatives you have documented are inadequate, we may ask for more information, but documentation for four is all we need at this time.

(e) Disclose any pending or resolved complaints involving the Station filed during the Station's current license term before any body having competent jurisdiction under federal, state, territorial or local law, alleging unlawful discrimination in the employment practices of the Unit on the basis of race, color, religion, national origin, or sex. For each such complaint, provide: (1) a brief description of the allegations and issues involved; (2) the names of the complainant and other persons involved; (3) the date the complaint was filed; (4) the court or agency before which it is pending or by which it was resolved; (5) the file or case number; and (6) the disposition and date thereof or current status. Note that all complaints must be reported, regardless of their status or disposition.

(f) In accordance with Section 73.2080(b), from the first day of the Station's current license term (or the date the licensee became the owner, if after that date) until the date of this letter, describe the responsibilities of each level of Unit management responsible for implementing Unit EEO policies and describe how the Unit has informed employees and job applicants of its EEO policies and program.

(g) In accordance with Section 73.2080(c)(3), from the first day of the Station's current license term (or the date the licensee became the owner, if after that date) until the date of this letter, describe the Unit's efforts to analyze its EEO recruitment program to ensure that it is effective and to address any problems found as a result of such analysis.

(h) In accordance with Section 73.2080(c)(4), from the first day of the Station's current license term (or the date the licensee became the owner, if after that date) until the date of this letter, describe the Unit's efforts to analyze periodically its measures taken to examine pay, benefits, seniority practices, promotions, and selection techniques and tests to ensure that they provide equal opportunity and do not have a discriminatory effect. If the Unit has one or more union agreements, describe how the Unit cooperates with each union to ensure EEO policies are followed for the Unit's union-member employees and job applicants.

(i) If your entity is a religious broadcaster and any of its full-time employees are subject to a religious qualification as described in Section 73.2080(a) of the rules, so indicate in your response to this



letter and provide data as applicable to the Unit's EEO program. For example, for full-time hires subject to a religious qualification, only a record of the hire listed by job title and date filled, the recruitment sources used for the opening, and the source of the hiree must be provided. No other records are required for those hires. If five or more full-time positions are not subject to a religious qualification, the licensee must maintain and provide all records for such hires and complete the initiatives required under Section 73.2080(c)(2). Otherwise, a religious broadcaster is not required to perform these initiatives.

(j) Among items we do not need in your response to this letter are copies of applicants' resumes, your company training manuals, posters, employee handbooks, or corporate guidebooks. If you believe any of the information in various corporate manuals or posters are relevant to any part of this audit letter, you may summarize what is in them. If you believe this letter requires you to provide an unusually burdensome volume of documentation, you may contact us prior to the response deadline to discuss possible ways of condensing your response.

#### 4. Time Brokerage.

(a) **Licensee of brokered station(s).** If the Unit employs fewer than five full-time employees and any station included in it is subject to a time brokerage agreement, in addition to responding to this letter and providing us a list of the Unit's full-time employees listed by job title (and the number of hours each employee is assigned to work) and a response to Question 3(e) above, you must immediately forward a copy of this letter to the broker under each such agreement, which must respond to Question 4(b) below. If the Unit employs five or more full-time employees, the licensee must respond fully to paragraph 3 above, and also forward the letter to the broker so the broker may respond to Question 4(b) below.

(b) **Broker receiving audit letter from brokered station licensee.** If you are the broker of a station, and the station you are brokering receives an audit letter, the licensee of the brokered station must forward the audit letter to you. You should respond to the audit letter concerning EEO information relating only to your own full-time employees at the brokered station. See Section 73.2080(f)(3).

(c) **Broker receiving audit letter directly from Commission.** If you are a broker, but the target station in this audit letter is a station licensed to you, you must submit information requested herein for the EEO program at your station (or employment unit). If you maintain EEO data for a station you are brokering with that for your own station that is the target of this audit letter, and lack the ability to separate the information, you must include in your response the information requested herein pertaining to **your** full-time employees at the station(s) you broker. See Section 73.2080(f)(3).

(d) **Broker described under 4(b) or 4(c) above.** If your full-time employees at the station you are brokering, combined with your full-time employees at your owned station(s), total fewer than five, however, you need only respond to this letter by the deadline described below by submitting a list of your Unit's full-time employees (listed by job title and number of hours regularly assigned to work per week) and the same type of list for the full-time employees you employ at the brokered station(s), and a response to Question 3(e) above.

5. **Procedures.** Direct your response to EEO Staff, Policy Division, Media Bureau, Federal Communications Commission, 445 12<sup>th</sup> Street, S.W., Washington, DC 20554. The response must be received by the Commission by August 6, 2018. You need only submit your original response; no copies are needed. You should direct your response to the above address, *not* the office of the FCC Secretary. The Secretary does

not process responses to EEO audit letters. The accuracy and completeness of the response must be certified by an officer, partner or other principal of the Station licensee or broker (as appropriate) or, in the case of a noncommercial educational station, by an officer, member or other principal of the licensee. (See Section 1.16.)

6. As of March 1, 2018, radio as well as television stations were required to have their public files online on the Commission's website. See *Expansion of Online Public File Obligations To Cable and Satellite TV Operators and Broadcast and Satellite Radio Licensees*, 31 FCC Rcd 526, 543 (2016). Because your audit response and our final response to you will need to be included in your public file when this audit is concluded, your response must be in the form of a CD or other electronic medium, such as an e-mail to [lewis.pulley@fcc.gov](mailto:lewis.pulley@fcc.gov). To knowingly and willfully make any false statement or conceal any material fact in response to this audit is punishable by fine or imprisonment (see 18 U.S.C. § 1001; see also 47 C.F.R. § 1.17), revocation of any station license or construction permit (47 U.S.C. § 312(a)(1)), and/or forfeiture (47 U.S.C. § 503). Extensions of time must be requested in writing (or sent by e-mail to [lewis.pulley@fcc.gov](mailto:lewis.pulley@fcc.gov)) and will be granted only upon a showing of extraordinary circumstances. Unless and until the EEO Staff grants such a request the original deadline remains in effect. Failure to respond to this audit letter by the deadline is punishable by sanctions in accordance with Section 73.2080(g).

7. In accordance with Sections 73.3526(e)(10) (for commercial stations ) and 73.3527(e)(11) (for noncommercial educational stations), linked here:

[https://www.ecfr.gov/cgi-bin/text-idx?SID=05bcd2d178b35195633871d209cc728e&mc=true&node=se47.4.73\\_13526&rgn=div8](https://www.ecfr.gov/cgi-bin/text-idx?SID=05bcd2d178b35195633871d209cc728e&mc=true&node=se47.4.73_13526&rgn=div8)

[https://www.ecfr.gov/cgi-bin/text-idx?SID=05bcd2d178b35195633871d209cc728e&mc=true&node=se47.4.73\\_13527&rgn=div8](https://www.ecfr.gov/cgi-bin/text-idx?SID=05bcd2d178b35195633871d209cc728e&mc=true&node=se47.4.73_13527&rgn=div8)

you must place a copy of this letter and your response in the public inspection file of each affected station. Consequently, your response should not include personal information about individuals, such as social security numbers, home addresses, or other personally identifiable information. We do not require that employment units retain such information in their records, or that such information be provided in response to this letter.

8. If our EEO random audits sent in 2016, 2017, or 2018 included the Station, you may not have to respond to this letter. If the Station completed an audit in that timeframe, before responding, please tell us the dates of public file reports included in the Station's recent audit response, in an e-mail sent to [lewis.pulley@fcc.gov](mailto:lewis.pulley@fcc.gov). We will then advise you if a response is necessary. Also, if the Station's license renewal was granted after June 1, 2016, you may not need to respond to this letter. To confirm, please e-mail me at [lewis.pulley@fcc.gov](mailto:lewis.pulley@fcc.gov). Should you have any questions, please contact the EEO Staff at (202) 418-1450. Thank you for your cooperation.

Sincerely,

Lewis C. Pulley  
Assistant Chief, Policy Division  
Media Bureau





Serving Ohio's broadcasters since 1937

Ohio Association of Broadcasters  
17 South High Street Suite 1010  
Columbus Ohio 43215  
614.228.4052

[www.oab.org](http://www.oab.org)

 [www.facebook.com/ohiobroadcasters](http://www.facebook.com/ohiobroadcasters)

 [www.twitter.com/ohiobroadcaster](http://www.twitter.com/ohiobroadcaster)