



THE FCC'S **EQUAL EMPLOYMENT OPPORTUNITY RULES**

Primer for Ohio Broadcast Stations

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

for

OHIO BROADCAST STATIONS

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I. Introduction

The FCC's current equal employment opportunity ("EEO") rules have been on the books for about 20 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, particularly if a station subject to such an EEO audit has not adopted appropriate practices and procedures for maintaining EEO records.

This Handbook provides a detailed summary of the FCC's EEO rules. In addition, attached to this Handbook 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 attached to this Handbook include forms designed to help your station comply with the EEO rules.

Please keep in mind that this Handbook 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 FCC's 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 the broadcaster's character qualifications to hold an FCC license. 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 religious broadcasters 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 contained in the EEO rules.

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. Note that the FCC will consider such determinations even if the parties to a complaint or proceeding have reached a pre-judgment settlement.

Generally, the FCC will defer taking 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. 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 taken by a court or an administrative body that involves conduct bearing on the licensee’s or permittee’s character qualifications and that would be reportable in connection with a license (or permit) renewal application—and that would generally include discrimination complaints. 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*. 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.

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; however, such a 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 2100, Schedule 396) with their license renewal applications. 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.

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 such other owner holds a 20 percent or greater voting interest.

In addition, where a station is programmed by or brokered to another entity that 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 conducts EEO audits of 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 women. 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 (as that term is defined by the FCC) 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 stations’ employment units with less than five full-time employees are not required to comply with any of the EEO program requirements, regardless whether some or all of their employees are subject to a religious qualification.

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; online 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. In 2017, the FCC ruled that stations may be able use internet-only recruitment for full-time vacancies, but *only under certain conditions*, described below. In its 2017 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.

It is critically important that stations understand the limits of the Commission's policy here: The FCC's does not give broadcasters carte blanche to rely solely on internet-based recruitment. Instead, the FCC's policy allows stations to rely on internet-only recruitment within the context of the "wide dissemination" standard, which, again, 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 may select the number and type of recruitment sources that they use to fill 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. That said, stations must be careful and deliberate in their decisions to use internet-only recruitment—and especially with any decision to use only one website; EEO Staff may examine the specifics of any particular case to ascertain whether a 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." Stations with questions regarding the use of internet-only recruitment may wish to contact communications counsel.

"Stale" Applications? The FCC will permit stations to rely upon reasonably current job 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 job 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. In other words, there must be a meaningful opportunity for other applicants to compete for the position. However, if widespread 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 immediately replace 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, with an eye toward ensuring that stations do not abuse the "exigent circumstances" exception as a means of avoiding regular widespread 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; rather, the FCC wants 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, stations may wish to run a message similar to the following statement over the air, in local publications, and on your station's 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, email address, 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. Stations may wish to periodically reach out to an organization that has requested notification in order to confirm whether such organization continues to desire vacancy notifications.

The FCC gives broadcasters discretion to determine the method of providing notice of vacancies to requesting parties, and such methods may include email or fax. For example, a station may maintain an electronic list of recruitment sources and notify the sources simultaneously with a single email 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 June 2022, the most recent list of metropolitan areas of which we are aware (released March 6, 2020) is available at <https://www.whitehouse.gov/wp-content/uploads/2020/03/Bulletin-20-01.pdf>, and

recent population estimates are available located on the U.S. Census Bureau's website at <https://www.census.gov/data/tables/time-series/demo/popest/2020s-total-metro-and-micro-statistical-areas.html>.

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, 2024, and for Ohio television stations, the next pertinent anniversary is June 1, 2023. 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, in which case the Commission will require the submission thereof.

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. This

documentation must verify that some activity occurred, and 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 online 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 recruitment 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 and Commission Review

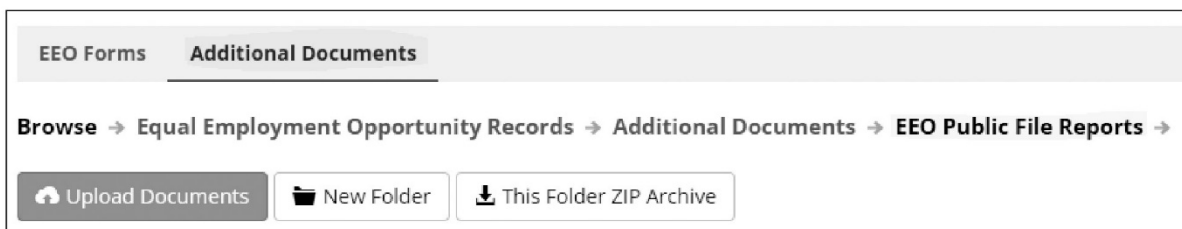
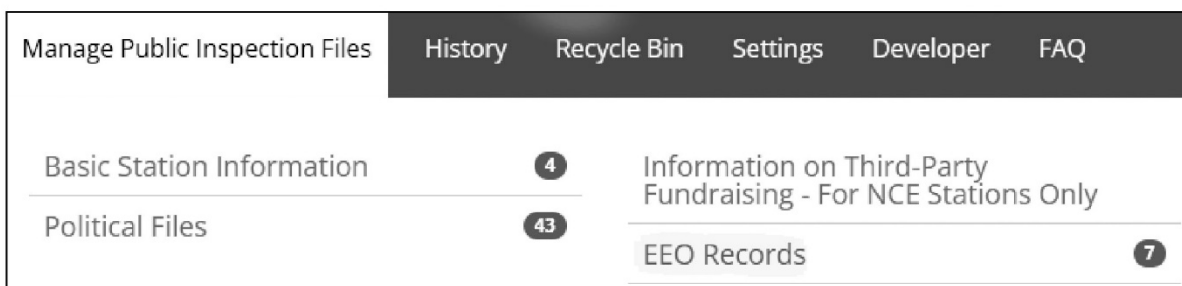
In addition to engaging in recruitment, outreach, recordkeeping, and self-assessment measures, the EEO rules also require station employment units to comply with certain reporting requirements. Stations are required to place certain EEO program information in their online public inspection files every 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 of a station (and/or employment unit) 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. Online 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, 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 by navigating to "EEO Records" and uploading the report to "ADDITIONAL DOCUMENTS → EEO Public File Reports":



Annual EEO Public File Reports must remain in each station's online 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 online 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, email address 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.

Included in Exhibit D is a sample EEO Public File Report that you may use to assist with creating your employment unit's annual reports. As noted above, any format is acceptable, so long as the report contains all the required information.

In addition to placing an annual EEO Public File Report in the online public inspection file, immediately prior to filing a license renewal application, licensees are required to file their last two EEO Public File Reports covering the two years preceding the renewal application filing date. Those annual EEO Public File Reports are filed as part of FCC Schedule 2100, Form 396, 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 inspection 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 inspection file and are fully subject to the EEO rules, including (if applicable) the requirement to annually prepare and upload an EEO Public File Report.

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 Review

Pursuant to the Communications Act, the FCC is required to review the EEO practices of television stations with five or more full-time employees and radio stations with more than ten full-time employees at the middle point of their license terms.

In 2019, the Commission eliminated the FCC Form 397 mid-term filing requirement. Generally, the information that stations previously provided on Form 397 is also available in stations' online public inspection files. Note: Though Form 397 has been 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 2100, Schedule 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 2100, Schedule 396 (sometimes still colloquially called "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 Schedule 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 full-time employees are also required to submit FCC Schedule 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 and is intended to gather workforce diversity composition data from broadcasters on an annual basis. However, the FCC's collection of the Form 395-B has been suspended since 2001 in light of several federal court decisions and lingering issues regarding the confidentiality of the employment data submitted on the form.

In July 2021 the FCC issued a Further Notice of Proposed Rulemaking (the "Further Notice") intended to "refresh the record" on the FCC's currently unutilized EEO Form 395-B. The Further Notice aimed to refresh the record regarding the long-dormant Form, including any legal, logistical, and technical issues that would prevent the FCC from again requiring broadcasters (and others) annually to complete and submit the Form. The Further Notice did not propose "unfreezing" the current suspension of Form 395-B filings, but sought comment on multiple issues related to the filing, which nonexclusively include:

- Whether employee data reported by broadcast licensees on Form 395-B can or should be kept confidential and/or on a non-station-attributable basis;
- Whether circumstances or legal precedent have changed in the approximately 20 years during which the Form 395-B filing requirement has been suspended such that there now exist new, innovative, or different suggestions for collecting and handling employment information on Form 395-B;
- If the Form 395-B is to be filed on a non-attributable basis, whether and how the Commission could contact the filing licensee if there are problems with the data and/or conduct audits of compliance with the Form 395-B annual filing requirement; and
- Whether, given the passage of time, the racial classifications reflected on the FCC Form 395-B are no longer entirely consistent with the classifications employed by the current EEO-1 form.

As of the date of this Handbook, the Commission has not yet made a decision regarding confidential filing of FCC Form 395-B. Thus, as of June 2022, the requirement that broadcast stations file FCC Form 395-B remains suspended.

The FCC has indicated that if and 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 2100, Schedule 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 2100, Schedule 396-A contemporaneously with original construction permit, assignment, or transfer application. On Schedule 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 Schedule 396 and EEO Public File Reports during consideration of the station's license renewal application. Second, for television stations that are part of an employment unit with five or more full-time employees and for radio stations that are part of an employment unit with eleven or more full-time employees, the annual EEO Public File Reports are reviewed by the FCC as part of its mid-term review four years into a station's license term.

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 Schedule 396 or the contents of a station's online public inspection 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 an EEO Public File Report when due;
- Failure to file Schedule 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.

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 2022, the FCC sent the first of its EEO audit letters to broadcasters in March.

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 March 2022 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, emails, 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 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 from the past decade.

1. \$32,000 Fine for “Repeated Violations”

In February 2022, the FCC fined a former licensee of five Georgia stations \$32,000 for EEO rule violations stemming from the licensee’s failure to timely upload the station group’s 2018 annual Public File Report.

The FCC found that the report was uploaded to the stations’ online public inspection files and websites more than nine months after the report was due (in December 2018). In addition, the Commission determined that, based on the nine-month oversight, the licensee had failed to analyze its EEO recruitment program in accordance with the requirements of the EEO rules.

The licensee asserted that the delay in uploading the 2018 Public File Report was due to a change in company staff and that remaining personnel had “simply overlooked” the requirement but had immediately corrected the oversight once it was discovered. In response, the FCC doubled down, stating that the failure to realize the oversight for nine months illustrated a failure to appropriately analyze the EEO recruitment program.

The Commission fined the licensee \$26,000 for failure to timely upload the EEO documents and an additional \$6,000 for neglecting to analyze the EEO program. The FCC’s Rules set a base fine of \$10,000 for each violation of public file rules, but the Commission has the discretion to depart from those guidelines—that is what the Commission chose to do here, citing prior, non-EEO rule violations.

The FCC’s actions in this situation prompted NAB to weigh in, in favor of reversing the \$32,000 forfeiture. In its filing, NAB suggested that the Commission should exercise a reasonable degree of discretion in cases where an administrative mistake has not caused harm to the public, and that the focus of EEO rule enforcement should be the advancement of substantive policy goals underlying the rules, rather than the imposition of monetary fines for the sake of fines.

2. Admonishment

In 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.

3. \$20,000 Fine and Additional Reporting Requirements

In 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.

4. \$5,000 and \$9,000 Fines and Additional Reporting Requirements

In 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.

5. Two \$20,000 Fines and Additional Reporting Requirements

In 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.

- In the event that a station becomes aware of a violation of the EEO rules, prompt self-reporting of said violation may make the difference between an admonishment and a monetary forfeiture.
- 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 email, a hard copy of the transmitted email 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 and emails 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.

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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 meet the established religious qualification. 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 full-time vacancies for which a religious broadcaster applies a religious qualification); 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,

unless the religious broadcaster treats five or more of its full-time positions as “non-religious”—i.e., not subject to religious qualifications).

- ✓ 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.
- ✓ File an EEO Program Report (FCC Form 2100, Schedule 396) along with your license renewal application.
- ✓ File an Annual Employment Report (FCC Form 395-B) by September 30 of each year. (As of June 2022, this requirement is currently suspended, although the FCC has an active proceeding considering whether to reinstate the annual 395-B filing requirement.)
- ✓ 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:** Upload your station employment unit's EEO Public File Report covering the prior year in your station's online public inspection file and, if the station has a website, post the report on that site.*
- **June 1 of every even-numbered year:** The then-applicable two-year period in which to complete your station employment unit's required number of menu option, EEO outreach activities ends.*
- **September 30 of every year:** *As of June 2022, CURRENTLY SUSPENDED* File an Annual Employment Report (FCC Form 395-B) with the FCC. Do not put the report in your public inspection file.†
- **June 1, 2028:** Along with your station's license renewal application, file a Broadcast EEO Program Report (FCC Form 2100, Schedule 396) with the FCC and include your station employment unit's EEO Public File Reports from the last 2 years.†
- **October 1, 2028:** License Expiration.

OHIO TELEVISION STATIONS

- **June 1 of every year:** Upload your station employment unit's 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.*
- **June 1 of every odd-numbered year:** The then-applicable two-year period in which to complete your station employment unit's required number of menu option, EEO outreach activities ends.*
- **September 30 of every year:** *As of June 2022, CURRENTLY SUSPENDED* File an Annual Employment Report (FCC Form 395-B) with the FCC. Do not put the report in your public inspection file.†
- **June 1, 2029:** Along with your station's license renewal application, file a Broadcast EEO Program Report (FCC Form 2100, Schedule 396) with the FCC and include your station employment unit's 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 online public inspection file**. The information you collect, however, will be used in preparing the station's annual EEO Public File Report (if your station employment unit has five or more full-time employees). 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:

6. **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.
7. **Form BP-04, "INTERVIEWEE INFORMATION":** For each full-time vacancy, list the interviewees and the referral source for each interviewee.
8. **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, emails, 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 online 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 uploaded to the station's online public file, the employment unit's report must also be posted on each station's website.

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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, MARCH 2022



Federal Communications Commission
Washington, D.C. 20554

March 21, 2022

Dear Licensee:

1. In accordance with 47 CFR § 73.2080(f)(4), [Station call sign] (the Station) and all other stations, if any, in the same station employment unit (defined by 73.2080(e)(2) as commonly owned stations in the same market that share employees) (the Unit) has been randomly selected for an audit of its Equal Employment Opportunity (EEO) program. A copy of section 73.2080 of the Federal Communications Commission (FCC or Commission) rules can be found here: <https://www.fcc.gov/enforcement/eb-eeo/equal-employment-opportunity-rules>

2. Audit Data Requested.

(a) If the Unit has fewer than five full-time employees (defined by section 73.2080(e)(1) as employees regularly assigned to work 30 hours a week or more), submit a response listing the Unit's full-time employees identified by job title (no personal names should be provided), the number of hours each is regularly assigned to work per week, and a response to Question 2(b)(vi) below. Please also see Questions 3 and 4 below for guidance regarding brokers and brokered stations.

(b) If the Unit employs five or more full-time employees, provide the following information:

(i) Copies of the Unit's two most recent EEO Public File Reports, described in section 73.2080(c)(6).

(ii) For each station in the Unit that maintains a website, the website address. If the Unit's most recent EEO Public File Report is not posted on each website as required by section 73.2080(c)(6), identify that website and explain why the report is not so posted. If the Unit does not maintain a website, but its corporate site contains a link to a site pertaining to the Unit, identify the corporate website address where the Unit's most recent EEO Public File Report is linked pursuant to section 73.2080(c)(6).

(iii) For each of the Unit's full-time positions filled during the period covered by the EEO Public File Reports noted above, or since acquisition of the Unit (if during that period), the date of hire as required by section 73.2080(c)(5)(vi) as well as 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 the burden of responding to this audit, if a job notice was sent to multiple sources, the Unit may include in its response: (1) documentation showing one such notice was sent, (2) a list of the additional sources to which the notice was distributed, and (3) a statement confirming notices to all additional sources used to announce the vacancy were retained, as required by section 73.2080(c)(5)(iii).¹ Include, however, copies of all job announcements sent to any organization (identified separately from other recruitment

¹ For on-air announcements that aired multiple times to advertise the position, you may send a traffic log summary documenting the timeframe during which the announcements aired (in lieu of the log in its entirety). The log showing all air dates and times may be required for additional verification, but the Unit need not provide with its initial response.

sources) that has notified the Unit that it wants to be notified of the Unit's job openings, as described in section 73.2080(c)(1)(ii).

(iv) As required by section 73.2080(c)(5)(v), the total number of interviewees for each vacancy and the referral source for each interviewee for all the Unit's full-time vacancies filled during the period covered by the above-noted EEO Public File Reports.

(v) Dated documentation of the Unit's recruitment initiatives described in section 73.2080(c)(2) during the period covered by the above-noted EEO Public File Reports, such as participation in job fairs, events with educational institutions, and mentoring or training programs for staff. Specify the Unit personnel involved in each recruitment initiative. In addition, provide the Unit's total number of full-time employees and state whether the population of the market in which any of the Unit's stations operates is 250,000 or more. Based upon these two factors and as required by sections 73.2080(c)(2) and (e)(3) of the Commission's rules, state whether the Unit is required to perform two or four points worth of initiative activities within a two-year period (measured from the date the stations in the Unit file their renewal applications and the second, fourth, sixth and eighth anniversaries of that date). If the Unit performed more than the required number of initiative activities, it may provide documentation for only the required amount in its response, i.e., two or four points worth. If any documentation provided appears inadequate, e.g., it is not dated or does not clearly prove the Unit's participation, the Commission may ask for additional verification.

(vi) Any pending or resolved complaints involving the Unit filed during the Unit's current license term(s) 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 the Unit must report all complaints, regardless of their status or disposition.

(vii) In accordance with section 73.2080(b), during the Unit's current license term(s) (or since acquisition of the Unit (if during that period)), a description of the responsibilities of each level of Unit management responsible for implementing Unit EEO policies and how the Unit has informed employees and job applicants of its EEO policies and program.

(viii) In accordance with section 73.2080(c)(3), during the Unit's current license term(s) (or since acquisition of the Unit (if during that period)), a description of 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.

(ix) As required by section 73.2080(c)(4), during the Unit's current license term(s) (or since acquisition of the Unit (if during that period)), a description of 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.

(x) If your entity is a religious broadcaster and any of the Unit's full-time employees are subject to a religious qualification as described in section 73.2080(a) of the rules, the Unit should indicate that status in its response and provide data as applicable to its EEO program. For example, for those full-time hires subject to a religious qualification, you must provide only a record of the hire listed by job title and date filled, the recruitment sources used for the opening, and the source that referred the person hired. 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.

(c) Resumes, company training manuals, posters, employee handbooks, and corporate guidebooks are not required to be submitted. If any of the information in these or similar materials is relevant to any part of this audit letter, the Unit may provide a summary of any content if it so wishes. If this audit requires an unusually burdensome volume of documentation, the Unit may contact EEO staff at (202) 418-1450 prior to the response deadline to discuss alternative ways of condensing the information.

3. Time Brokerage—Licensee of brokered station(s) receives audit letter.

If any station included in the Unit is subject to a time brokerage agreement, the licensee must immediately forward a copy of this letter to the broker under each such agreement. Additionally, if the Unit employs fewer than five full-time employees, the licensee must respond by providing a list of the Unit's full-time employees listed by job title, the number of hours each employee is assigned to work, and a response to Question 2(b)(vi) above. If the Unit employs five or more full-time employees, the licensee must respond fully to paragraph 2(b).

4. Time Brokerage—Broker receives audit letter.

(a) **Broker receives audit letter from brokered station licensee.** The broker must submit information requested in 2(b) above concerning information relating only to its own full-time employees working on behalf of the brokered station, as required by section 73.2080(f)(3) of the Commission's rules. If recruitment activity for those brokered station employees is maintained with that of other stations licensed to you, and you lack the ability to separate the information, submit information pertaining to both.

(b) **Broker receives audit letter directly from Commission.** If any station in the Unit is licensed to you, submit information requested in 2(b) above for the Unit's EEO program. If recruitment activity pertaining to full-time employees working on behalf of another station you broker is maintained with that of the Unit, and you lack the ability to separate the information, submit information pertaining to both.

(c) **Broker described in 4(a) or 4(b).** If full-time employees at the station you broker, combined with full-time employees at the Station (or Unit), total fewer than five, you need only respond to this letter by submitting a list of full-time employees (identified by job title and number of hours regularly assigned to work per week) for both the brokered station(s) and subject Station as well as a response to Question 2(b)(vi).

5. Procedures.

(a) **The response to this audit letter must be uploaded to the FCC-hosted online public inspection file (<https://publicfiles.fcc.gov/>) belonging to each station in the Unit by no later than May 5, 2022.** The response should be placed in the EEO Audits, Investigations, and Complaints subfolder in the online public file (found at EEO Records>>Additional Documents>>EEO Audits, Investigations, and Complaints). Include in the response the Station's Facility ID Number and an e-mail address of a Station representative.

(b) Any extension of time must be requested at least five days prior to aforementioned deadline (via email to EB-EEO@fcc.gov), indicate the additional time the Unit believes it needs to complete its response (not to exceed 45 days) and will be granted only upon a showing of good cause. Unless and until an extension is granted, the original deadline remains in effect.

(c) If the Unit submitted an EEO audit response in 2020 or 2021 and/or the most recent license renewal application(s) applicable to the Unit were granted after June 1, 2020, send an email to EB-EEO@fcc.gov for additional guidance on whether a response is required. In the email, provide a reference to the relevant filings/applications before the Commission.

(d) 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 47 CFR § 1.16.). 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; 47 CFR § 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). Failure to respond to this audit letter by the deadline is punishable by sanctions in accordance with section 73.2080(g).

(e) As required by sections 73.3526(e)(10) (commercial stations) and 73.3527(e)(11) (noncommercial educational stations), a copy of this letter and the response must be placed in the FCC-hosted online public inspection file belonging to each station in the Unit. Consequently, the response should not include personal information about individuals, such as social security numbers, home addresses, or other personally identifiable information. The FCC does not require that employment units retain such information in their records, or that such information be provided in response to this letter.

Should you have any questions, please contact EEO Staff at EB-EEO@fcc.gov or (202) 418-1450. Thank you for your cooperation.

Sincerely,

/s/ Elizabeth Goldin

Elizabeth E. Goldin
Assistant Chief, Investigations & Hearings Division
Enforcement Bureau