

EEO 2015

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What's Happening on EEO?

- Over the last few years, the FCC has taken numerous enforcement actions under the EEO rules
- Fines ranging between \$4000 and \$22,000 – a bunch of fines imposed on major broadcast corporations
- Fines came about as a result of renewal of license renewal review, EEO audits, and Mid-Term Reports
- FCC found numerous stations that hadn't been paying attention to the rules – and some that had, but messed up a few times – getting stricter all the time
- Increasing review of the recruitment actions taken by the broadcaster
- More audits underway
- Some calls for reform – but no real action on the table

EEO Mid-Term Reports

- FCC Form 397 filed 4 years after your license renewal, on anniversary date of license renewal filing
- Two years worth of EEO public file reports submitted with Mid-Term Report
- Also must list person responsible for EEO administration
- Started with radio stations this year, TV next year
- Applies to all TV employment units with 5 or more full-time employees, radio with 11 or more

What You Need To Remember About FCC EEO Obligations

- ⦿ Non-Discrimination, plus affirmative action
- ⦿ Three Pronged Recruitment Requirements
 - Wide Dissemination
 - Notice to Community Groups
 - Supplemental Efforts – “Non-vacancy specific outreach efforts”
- ⦿ Record-keeping Requirements
- ⦿ Reporting Requirements

One Other EEO Issue to Remember – Certifications in Ad Contracts

- Must have language in ad contracts that station and advertiser will not discriminate in ad sales practices
- To stop “no Spanish, no urban dictates”
- Applies to all stations – must certify at renewal time
- Need language in contracts and, if not contracts, other sales materials
- Puts burden on stations to be sure that rep firms and advertisers are complying

Do I Really Need to Worry About Affirmative Action Rules?

- Applies to all stations with 5 or more full-time employees
- Full-time for the FCC is 30 hours per week
- Commercial and noncommercial
- Employee count based on an “employment unit” – all commonly controlled stations in same area with at least one common employee

Shout It From the Mountaintops-- Wide Dissemination

- Should Use Broadcast, Print and Other Media to Avoid “The Old Boys Network”
- Applies To All Station Employment Units With Five or More Fulltime Employees
- Not Restricted To The Recruitment of Minorities and Women -- Applies To All Community Groups

Wide Dissemination-- What's It all About?

- Recruitment for *ALL* Full-time Job Openings Unless There are “Exigent Circumstances” – and the FCC really means *all* openings
- Outreach to Notify Entire “Community”
- Community Defined By Broadcaster - Based on Service Area
- Targeted Outreach to Specific Groups Not Required – but a good idea to show that you are reaching all groups in your area

Wide Dissemination-- Do I Really Have to Do That?

- Exigent Circumstances
- Specialized Positions
- Internal Promotions
- Part-timers and Temporary Employees
- No Recruitment If Hire from Pool Developed for the Same Job Opening and Applications Are “Viable” – probably no older than about 90 days
- No Recruitment Necessary for Employment of Owner of 20% or More of Licensee

No Virtual Compliance – No Relying Just on the Web

- FCC scrutinizing sources used for recruiting
- Can't just rely on the web
- Can't just rely on your own internal sources (your own airwaves, your own website)
- Can't rely on a combination of the two – must use other “real” sources – other media, community groups, employment agencies, schools

They Asked For It...

Notification of Community Groups

- ◉ Must Notify Groups Who Ask to Be Informed of Job Openings
- ◉ You Choose Method of Notification
- ◉ Must Publicize Ability to Be Added to List - Broadcast or Newspaper Notice
- ◉ A Group is on the List Until They Say “Stop”
- ◉ FCC has fined stations for not notifying community groups who asked for notice

Menu Options-- One Size Does Not Fit All

- Employment units with 5 to 10 employees must do at least two activities every two years – “non-vacancy specific outreach efforts”
- Employment units in smaller markets must do at least two activities every two years – smaller market is one in metropolitan area of less than 250,000 people
- Employment Units in larger markets with more than 10 employees must do at least four activities every two years
- Over-achieve - do more than required in case FCC disallows a claimed activity - activities must be “significant” to count

I'll Take One From Column A...

Menu Options

- Participation in four job fairs
- Co-sponsoring at least one Job Fair with a business or professional group with substantial minority or female membership
- Participation in four activities sponsored by community groups active in employment issues, e.g. career days, conventions, workshops
- Hosting at least One Job Fair
- Scholarship program
- Internship Programs
- Participation in four activities by educational institutions relating to broadcast employment
- Sponsoring two community activities to educate public on broadcast employment

Or One From Column B...

More Menu Options

- Participation in non-vacancy specific outreach efforts, such as job banks or Internet programs, including State Broadcast Association Programs
- Listing All Upper Level Jobs with newsletter of trade organization with substantial participation of minorities and women
- Assisting non-profit entities in developing web sites on broadcast employment
- Mentoring programs for Employees
- Training programs to advance Employee skills
- EEO Training programs for Management Employees
- Training programs for non-profit organizations on broadcast employment opportunities
- Other activities calculated to disseminate information on broadcast employment opportunities

Was it Good For You?

Self-Assessment

- Analyze Recruitment Program to ensure effectiveness of broad outreach
- Disseminate EEO Program to Employees and Applicants
- Review Seniority Practices to avoid discrimination
- Examine Salaries and Benefits to assure that there is no discrimination
- In Recruitment Announcements, make sure no inference of racial or gender preferences
- Ensure promotions are non-discriminatory
- Work with Unions, if any, to develop nondiscrimination programs
- Avoid tests or selection techniques that could be discriminatory
- Add on to fine for failure to recruit – if you didn't recruit enough, you didn't self-assess as you would have discovered the problem

Write It Down!

Internal Record Keeping Requirements

- List of all fulltime jobs filled, by job title
- Recruitment Sources used to fill jobs (Prong 2 groups listed separately)
- Address, telephone number and contact person for each recruitment source
- Dated copies of correspondence to all recruitment sources
- Number of interviewees for each job, and recruitment source for each interviewee
- Recruitment Source of Person Hired
- Total Number of interviewees during the year, broken down by recruitment source
- Documentation of all supplemental efforts

Write It Down - Annual Public File Report Requirements

- List of all fulltime jobs filled, by job title
- Recruitment Sources used to fill jobs (Prong 2 groups listed separately)
- Address, telephone number and contact person for each recruitment source,
- Recruitment Source of Person Hired
- Total Number of interviewees during the year, broken down by recruitment source
- Description of all supplemental efforts

Annual Public File Report

Where You Can Put It

- ⦿ Annual Filing Requirement - Anniversary of your Renewal filing – stays in public file until next renewal is granted
- ⦿ Post Information on your Station's Website (only need to keep most recent report on website)
- ⦿ FCC is checking websites.....
- ⦿ Reporting Period Ends 10 Days Before Reports Due

Pay Attention: Potential Problems

- Discrimination
- Insufficient Outreach
- Failing to Document Efforts or Problems
- Insufficient Supplemental Efforts
- Insufficient Paperwork
- Insufficient Self-Assessment
- Improper FCC Filings
- Misrepresentation

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