

## Broadcast Station Advisory: The Basics of the FCC Equal Employment Opportunity Rules

05.05.10

By David D. Oxenford and Brendan Holland

In November 2002, the FCC adopted the current EEO Rules with which broadcast stations must comply. For the initial two years of their existence, FCC enforcement of these rules was invisible, as there were no fines or other public actions to remind broadcasters of the importance that the FCC places on stations reaching out to their communities to foster a diverse workplace. Because of this lack of enforcement activity, many broadcasters may have become lax in their compliance with the rules.

However, in May 2004, the FCC began the first of its random EEO audits of broadcast stations. Since then, approximately every three to four months, the FCC randomly selects scores of broadcasters for a review of their EEO compliance. Once selected, the broadcaster has to submit to the FCC its public records of EEO compliance, as well as extensive supporting documents demonstrating compliance with all facets of the FCC's EEO Rules. The audit also requires detailed answers to questions regarding the station's EEO policies and efforts to comply with the FCC's rules.

As a result of these random audits, as well as EEO violations discovered as part of the renewal of license process, the FCC has levied significant fines against broadcast stations. For example, in the past few years, at least three separate broadcast groups have been fined between \$8,000 and \$20,000 for their failure to comply with the EEO Rules. In each of these cases, broadcasters have failed to comply with the most basic outreach requirements of the EEO Rules – or, at the very least, they have been unable to document their efforts. Because of their failures in outreach or record-keeping, the Commission in each case found that other violations of the rules – such as the requirement that broadcasters self-assess their EEO program – grew out of the initial violations.

Enforcement of the EEO Rules remains high on the Commission's priority list. Given the FCC's clear intent to vigorously enforce its EEO Rules, broadcasters need to be sure that they are observing all of the requirements of these rules. This memo is meant to remind broadcasters of their obligations under the rules, and to provide some suggestions on how to maintain compliance with the rules. Of course, this is a complicated subject, with many nuances, so this memo should be taken only as general advice. For specific situations, you should always contact your station's lawyer for advice.

### What Was the Commission Thinking?

#### *The Basics of the Rules*

There are several aspects to the FCC's EEO policy. Initially, for all stations, there is the basic requirement that a broadcaster not discriminate in the hiring and promotion of employees. The obligation to avoid discrimination, and to report on any legal claims that are filed against a station alleging that discrimination has occurred, applies to all broadcasters, regardless of the number of employees at a station. This policy has been part of FCC policy for almost 50 years, and its continued application should not be a surprise to broadcasters.

In addition to the general obligation of all broadcasters to avoid discrimination, the 2002 Rules adopted a three-pronged affirmative action requirement designed to bring new people into the broadcast industry. In essence, the Commission's goal was to expand the hiring pool, by giving the public more notice of broadcast job openings and more information about the duties and requirements for broadcast positions.

Some aspects of the rules that were highlighted in the cases in which stations were fined include the following:

**Wide Dissemination:** The first two prongs of the 2002 Rules mandate wide-dissemination of information about specific job openings at broadcast stations. The purpose of these rules is to give the general public information about specific job openings at broadcast stations. The Commission feared that too many broadcast positions were filled through an “old-boy’s network” of broadcast consultants and word-of-mouth referrals. The Commission thus established a requirement, detailed in later sections of this memo, that broadcasters publicize job openings in a manner designed to reach beyond the “old-boy’s” network, and to let all groups within the station’s community know of specific openings.

**Supplemental Efforts:** The Commission also felt that the public might have some reluctance to apply for broadcast jobs if they did not know the duties and responsibilities of such jobs, or the qualifications necessary to fill those positions. Thus, the Commission imposed on broadcasters an obligation to, in effect, educate the public about broadcast jobs. This obligation is reflected by the Menu Options spelled out in the third prong of the 2002 Rules, and detailed below.

**Self-Assessment:** In addition, the Commission has imposed duties on broadcasters to self-assess their programs to make sure that they are working. Each of the recent fines included a penalty for the station’s failure to self-assess, as the Commission felt that a broadcaster could not be assessing its program if it had not kept track of its recruiting efforts.

**Documentation:** Paperwork is also a large part of the EEO requirements, as a broadcaster must document for the public its EEO outreach efforts on a yearly basis, and must keep substantial additional internal records on an on-going basis. Each of these obligations is set forth in more detail below.

### **To What Stations Do These Rules Apply?**

As mentioned above, every broadcaster is subject to the basic requirement that they not discriminate in the hiring or advancement of employees at their stations. However, the new outreach requirements as set out in the 2002 Rules apply only to “station employment units” with five or more full-time employees. Station employment units with fewer than five full-time employees are exempt from Wide Dissemination, the supplemental efforts reflected by the Menu Options, and the yearly Public File Report requirements, each of which is discussed further below.

To the FCC, a **full-time employee** is one who works 30 or more hours per week. Station owners are not considered employees if they own at least 20 percent of the station’s ownership interest unless there is a single owner with more than a 50 percent interest, in which case only the controlling owner is not considered to be an employee.

A “**station employment unit**” is a station or group of commonly owned or controlled stations serving essentially the same area who share at least one common employee. Thus, a cluster of co-owned radio stations with a common General Manager (or Traffic Director or janitor, etc.) would be a single employment unit. If there are five full-time employees in the unit, the outreach requirements apply. Stations in the same market should be considered part of the same employment unit, even if the licenses are held by different business entities, if those entities are commonly owned or controlled. The Commission will consider licensees as commonly owned for the purpose of the EEO Rule if 50 percent or more of the voting control of each of the licensees is held by the same persons or entities.

If a station is subject to a time brokerage agreement, the licensee’s yearly Public File Report should include data concerning only its own recruitment efforts for full-time positions and not the efforts of the broker. If a licensee is a broker of another station in the same market in which it owns a station, the licensee’s EEO program should cover its employees at the brokered station as well as those employees at its own stations. If a licensee-broker does not own a station in the same market as the brokered station, then it must include information concerning its employees at the station that it is brokering in the yearly Public File Report for the station that it owns that is geographically closest to the brokered station.

Thus, for all but the smallest stations, the outreach requirements of the 2002 Rules apply. The requirements of these Rules are set forth in the Sections below.

### **Section I: Recruitment Requirements**

The 2002 Rules established a three-pronged recruitment requirement for all broadcasters with 5 or more full-time employees. There are limited exceptions to some of these requirements for religious broadcasters, which are set forth in a special section below.

#### **Prong 1 – Wide Dissemination**

The 2002 Rules require broadcasters to widely disseminate information concerning each full-time (30 hours or more) job vacancy that is filled at the station. Only in cases of vacancies filled in **exigent circumstances**, such as when an employee departs without notice and his responsibilities cannot be fulfilled, even briefly, by other station employees, can wide dissemination be avoided. The Commission has indicated that true exigent circumstances will be very rare. If a station can fill a position when an employee is on vacation, the station should be able to temporarily staff a position while doing at least some wide dissemination for the vacancy. However, the FCC will, in rare circumstances, recognize as an exigent circumstance "the availability of a talent so unique and exceptional" that a broadcaster could reasonably conclude that a comparable talent is unlikely to be found by recruitment. Such a circumstance could arise, for instance, if a station seeks to hire the top salesperson from a competitor – not to fill a vacancy, but to create a new position for that person because of the person's unique talents. The FCC expects vacancies filled without recruitment to be rare relative to the number of vacancies for which recruitment is conducted.

And just what does **wide dissemination** require? Broadcasters must develop and use for each vacancy a recruitment source or list of recruitment sources sufficient to ensure that all groups within the station's community have the opportunity to become aware of the vacancy. The broadcaster must ensure that its recruitment efforts are inclusive, and are reasonably calculated to reach the entire community. The rule does not dictate the number or type of sources that a broadcaster must use, but does recognize that there may be some sources that alone may reach all groups within a community. For instance, there may be a daily newspaper that the broadcaster concludes is so widely read that every significant group within the community would have notice of a job opening if that opening were advertised in the paper. Other sources, perhaps including a station group's own airwaves, may also be found to reach the entire community. However, relying on a single source for any vacancy is risky, and should be done only if the station can document from past experience that the single source brings in qualified applicants from a wide cross section of the community, representing all of the various groups within the community.

The same recruitment sources are not required to be used for every hire, and broadcasters may modify their sources as required – and in fact must modify their sources if they find that these sources are not producing quality interviewees from outside of the traditional broadcast employment sources. The Commission's rules do not require that any specific community group be contacted for any opening – unlike the old rules which had required that minority organizations be contacted about vacancies – as long as the source or sources they use could "reasonably be expected, collectively, to reach the entire community." To insure inclusiveness, it is advisable that, in addition to media sources, broadcasters send notices to large educational institutions, minority organizations, and other organizations in their communities likely to represent significant groups of the community's residents.

Broadcasters are not required to use recruitment sources that, in their good faith judgment, are unlikely to obtain responses from applicants qualified for a particular job. For example, a television broadcaster need not place a job notice in the local newspaper for a meteorologist if they do not believe that the local newspaper would be likely to reach qualified applicants for a particular opening. But stations must find some source that would likely reach a diverse group of potential applicants. For specialized positions, such as a meteorologist, trade publications with a wide national distribution can be used. However, stations are advised to use local sources for virtually all openings to make sure that the groups within your community are made aware of such openings.

Broadcasters can use non-public recruitment sources – such as word of mouth referrals – as long as they also use public recruitment sources sufficient to achieve broad outreach and fairly consider the applications generated by those sources. Broadcasters may use joint recruitment efforts, and may use (but are not required to use) the services of outside organizations, such as employment agencies or state broadcast organizations, to design or implement recruitment efforts. However, each broadcaster remains individually responsible for compliance with the rules. Stations may also use regional or national recruitment sources; the Commission will consider such sources when assessing a broadcaster's EEO record.

In certain circumstances, broadcasters need not recruit for each vacancy. If a broadcaster has already recruited for a position in accordance with the rules, and in its judgment the applications received remain viable at a later date (e.g. if another opening for the same type of job arises within 3 months of the first opening), it may make additional hires for substantially the same position originally advertised from the existing pool of applications without initiating a new recruitment process. In addition, the broadcaster may also consider additional applications received at job fairs or through other non-vacancy-specific efforts for the position.

In addition, the rules currently do not require wide dissemination for **internal promotions**, or for **temporary or part-time employees**. For internal promotions, perhaps the FCC believes that, when an employee is promoted, his or her job will have to be filled, so the wide dissemination would occur for that position. Many broadcasters hire employees initially on a part-time or temporary basis with the possibility of retaining them on a permanent basis if their performance is satisfactory. In that instance, if wide dissemination was done at the time of the part-time or temporary hire, the later decision to convert the employee's status to full-time in the same, or essentially the same, job may be treated as a promotion, and would not require further recruiting. If an employee is hired as a part-time or temporary employee without recruitment, however, then the station must engage in wide dissemination of the vacancy before the part-time or temporary employee is considered for a permanent full-time position.

After beginning recruitment, broadcasters must allow a reasonable time for applications to be filed before filling the position. The FCC has recognized that a shorter time might sometimes be necessary because of extraordinary circumstances, but cautioned that excessive instances of hires being made shortly after beginning recruitment could result in a finding of noncompliance if the evidence suggests that the broadcaster is not in good faith allowing adequate time for applicants to respond to its outreach efforts or is not considering their applications.

The Commission will judge the success of an employment unit's wide dissemination based on the diverse nature of the **interviewees and hires** made by the station. As set forth below, the station must keep records of the recruitment sources by which interviewees and those hired learned of the job opening. If too many of these people come to the station through the traditional broadcast sources (e.g., consultants, walk-ins, and word-of-mouth referrals from existing employees), then the Commission could find a violation. So reach out to your community and make sure that all groups within the community know of job openings at your stations, and be sure to interview and fully consider the qualifications of applicants from diverse sources. For your reference, a **checklist of simple steps** to remember when opening a full-time position is available as [Attachment A](#).

### Prong 2 – Notice to Community Groups

Under the 2002 EEO Rules, broadcasters must provide notice of each full-time job vacancy at the station to any organization that distributes information about employment opportunities to job seekers or refers job seekers to employers if that organization has requested such notice. The Commission expects broadcasters to make reasonable efforts to publicize this notification requirement through on-air announcements, press releases, newspaper ads, and notices posted on the station's web site. Stations are advised to run an on-air announcement on a regular schedule advising community groups of the ability to get on the station's list of groups that will be contacted. We would suggest a notice every two weeks, in all different dayparts, alerting organizations of their ability to request notice of job openings. Broadcasters have discretion as to how they provide notice to requesting parties, including through the use of e-mail and facsimiles. A broadcaster may maintain an electronic list of recruitment sources and notify all the sources simultaneously with a single e-mail when a vacancy occurs. While there is no requirement in the Commission rules, we advise Clients to notify organizations by other means if the station decides to send notice by e-mail, and an organization does not have e-mail capabilities. Notification may also be made as part of joint recruitment efforts among broadcasters, but each broadcaster participating in the joint recruitment efforts remains individually responsible for making the requested notifications related to its employment unit. Furthermore, in their yearly Public File Report, stations must separately identify those sources requesting notification, so stations are advised to carefully maintain their list of requesting organizations.

### Prong 3 – Supplemental Efforts

Even if a broadcaster has no job openings in a given year, those station employment units with 5 or more full-time employees must engage in **supplemental efforts** to educate the public about the job positions available at a broadcast station and the qualifications necessary to fill those positions. Broadcasters must complete two (for broadcast employment units with five to ten full-time employees or ones with more than ten employees that are located in smaller markets) or four (for employment units with more than ten full-time employees located in larger markets) of these supplemental efforts within a two-year period. The two-year period generally runs from the time a licensee files its license renewal application to the second, fourth, and sixth anniversary of that date. If a broadcaster owns a station or stations for less than the full two-year period, it is responsible only for the period after it acquired the stations, and must complete a prorated number of Menu Options within the available time period.

For purposes of deciding whether an employment unit must perform two, rather than four Menu Options during the relevant two-year period, the Commission has decided that a small market station employment unit is one consisting solely of a station or stations licensed to communities located in a county that is outside of all metropolitan areas, as defined by OMB, or located in a metropolitan area that has a population of less than 250,000. This should apply to stations in most markets below the 100 largest markets. The Commission recognized that smaller market stations often lack the resources to support some of the Prong 3 recruitment initiatives.

The Commission suggested 16 **Menu Options** from which a broadcaster can choose to satisfy this requirement. These 16 options are as follows:

1. Participation in at least four **job fairs** by station personnel who have substantial responsibility for hiring decisions.
2. **Hosting** at least one **job fair**.
3. **Co-sponsoring at least one job fair** with an organization in the business and professional community whose membership includes substantial participation of women and minorities.
4. Participation in at least four **activities sponsored by community groups** active in broadcast employment issues, including conventions, career days, workshops and similar activities.
5. The establishment of an **internship** program designed to assist members of the community to acquire skills needed for broadcast employment.

6. Participation in general (not vacancy-specific) **outreach efforts** by such means as job banks or Internet programs.
7. Participation in **scholarship programs** directed to students who wish to pursue a broadcasting career (simply donating money to someone else's scholarship program is not sufficient to qualify for a credit).
8. The establishment of **training** programs.
9. The establishment of **mentoring** programs. (Both training and mentoring programs are intended to allow station personnel to acquire skills that could qualify them for higher level positions. These two options would not be satisfied by ordinary training required for employees to perform their current positions, but instead should train employees for career advancement.)
10. Participation in at least four events or programs relating to career opportunities in broadcasting sponsored by **educational institutions**.
11. Sponsorship of at least two **events in the community designed to inform the public as to employment opportunities in broadcasting**.
12. Listing each upper-level opening in a **job bank or newsletter** of a media trade group with a broad-based membership, including participation of women and minorities.
13. Providing **assistance to outside non-profit entities** in the maintenance of web sites that provide counseling on the process of searching for broadcast employment and/or other career development assistance pertinent to broadcasting.
14. Providing **training to management level personnel** as to methods of ensuring equal employment opportunity and preventing discrimination.
15. Providing **training to personnel of outside recruitment organizations** that would enable them to better refer job candidates for broadcast positions.
16. Participation in activities other than the fifteen listed options that the licensee has designed to further the goal of disseminating information about employment opportunities in broadcasting to job candidates who might otherwise be unaware of such opportunities.

Broadcasters can accomplish Menu Options on a joint basis with other broadcasters, state broadcaster associations and other organizations, or with a corporate licensee's corporate headquarters. To earn credit for a joint undertaking, the broadcaster must have a "meaningful involvement" in the activity – such as meaningful input into the planning and implementation of an event – and cannot just lend its name to an activity or provide money where the activity is otherwise entirely conducted by another entity such as a trade association or the licensee's corporate headquarters.

Many of these Menu Options can be met by normal station activities, provided that these activities are revised slightly so as to focus on educating the public as to the duties and responsibilities of broadcast positions, how members of the public can train for such positions, and how they can learn about the availability of these positions. For instance, station tours or open houses can be turned into activities to educate the public as to broadcast positions (Option 11), if your staff is trained to present that kind of information. Appearances of staff members at school events or community groups can also meet Menu Options if the station staff members talk about the responsibilities of various broadcast jobs, and the training and availability of such positions (Options 4 or 10). Stations should over-achieve on the number of Menu Options that they complete, as the Commission has yet to issue any formal rulings interpreting what activities are sufficient to garner credit.

### **Special Outreach Rules for Religious Broadcasters**

Religious broadcasters that apply a religious qualification to all of their employees are not required to comply with the broad outreach recruitment requirement or the Menu Options, but must make reasonable, good faith efforts to recruit applicants, without regard to race, color, national origin or gender, among all of those who are qualified based on their religious belief or affiliation. In other words, the religious broadcaster needs to do some sort of dissemination among those who have the religious affiliation necessary for employment to insure that it is not just those who are already in the broadcast industry who hear of the job vacancy.

If religious broadcasters establish a religious qualification for some, but not all, of their positions, then the requirement applies to those positions that are subject to the religious qualification. In that instance, for positions not subject to a religious qualification, religious broadcasters must comply with Prongs one and two. A religious broadcaster that treats five or more its full-time positions as non-religious must meet all three Prongs of the recruitment program, including the Menu Options. Obviously, a religious broadcaster that treats none of its positions as subject to a religious qualification must comply with all three prongs.

## Section II: Recordkeeping and Reporting Requirements

To ensure that stations maintain sufficient records of their recruitment efforts, the Commission established the following recordkeeping and reporting requirements:

(1) **Internal Records.** Broadcasters must collect, and maintain in internal files, certain information that is not routinely submitted to the Commission, or made available to the public. However, this material will be necessary to respond to any Commission EEO audit, or to otherwise support the broadcaster's public filings should they be questioned during the processing of a license renewal, or in a complaint to the Commission. These non-public records include:

- (A) Listings of all full-time job vacancies filled by the station employment unit, identified by job title;
- (B) For each such vacancy, the recruitment sources used to fill the vacancy (including, if applicable, organizations entitled to notification under Prong 2, which must be separately identified), identified by name, address, contact person and telephone number;
- (C) Dated copies of all advertisements, bulletins, letters, faxes, e-mails or other communications announcing vacancies;
- (D) Documentation necessary to demonstrate performance of the Prong 3 Menu Options, for example, job fairs, mentoring programs and so forth (e.g. thank-you letters, affidavits of employees who performed the option, etc.);
- (E) The total number of **interviewees** for each vacancy and the **referral source** for each interviewee; and
- (F) The date each job was filled and the recruitment source that referred the person who was hired. Note that broadcasters need not obtain records of the recruitment sources of applicants, only of those interviewed and hired.

Stations must retain all records documenting outreach efforts until the grant of the renewal application covering the license term during which the hire or activity occurs. If a licensee acquired a station pursuant to an assignment or transfer that required Commission approval of an FCC Form 314 or 315 during the license term, it need not retain records pertaining to the outreach efforts of a prior licensee. Records may be maintained in an electronic format, for example by scanning documents into a computer format.

Religious broadcasters that apply a religious qualification to some or all of their hires need only retain, in the case of hires subject to the qualification, documentation on the full-time vacancies filled, the recruitment sources used, the date each vacancy was filled, and the recruitment sources of the hires.

(2) **Annual Public File Report.** Broadcasters must create an Annual Public File Report, and place it in the station public file on the **anniversary date of the filing of their license renewal application**. The report should cover all hiring and supplemental efforts done for a one-year period ending 10 days before the report is due to be placed in the public file. The report should include the following:

- (A) A list of all full-time vacancies filled during the preceding year, identified by job title;
- (B) A list of the recruitment source(s) used to fill those vacancies (including organizations entitled to notification of vacancies pursuant to Prong 2), including the address, contact person, and telephone number of each source;
- (C) A list of the recruitment sources that referred the people hired for each full-time vacancy;

(D) Data reflecting the total number of interviewees for the full-time vacancies during the preceding year, and the total number of interviewees referred by each recruitment source (in providing these numbers, make sure that the number of interviewees by source, when added together, equals the total number of interviewees that you report); and

(E) A list and brief description of Prong 3 Menu Options implemented during the preceding year, providing sufficient detail to demonstrate that your supplemental efforts were substantial.

Broadcasters may use any format in their Public File Report to avoid unnecessary duplication as long as the report clearly provides the required information. For example, if a broadcaster used the same recruitment sources for all its vacancies, it may maintain a single list of those sources which indicates that they were used for all vacancies. If a broadcaster used different sources for different vacancies, it may maintain a master list of all its sources and use a cross-reference system to show which sources were used for which vacancies. A **model format for an Annual Public file report** is available as [Attachment B](#) to this memorandum. This model form should be tailored to your station's own practices.

The Annual Public File Report is maintained in the station's file until the next license renewal is granted. So, by the end of a license term, a licensee would have eight reports in their public file. The 2002 Rules also require that the Annual Public File Report be posted on the station's web site, if the station has a website. Only the most recent report need be maintained on the website. Once a new report is created, the previous year's report may be removed from the website, even though it is maintained in the paper public inspection file.

Religious broadcasters with hires subject to a religious qualification must include, for full-time vacancies subject to the qualification, only the information listed in (A) and (B) above, along with information concerning the recruitment sources that referred the persons hired.

(3) **Renewal Applications.** At license renewal time, broadcasters must submit the station's Annual Public File Report for the two years prior to the renewal filing along with an FCC Form 396, which is submitted in conjunction with the renewal application. All stations, even if they have fewer than five full-time employees, must submit an FCC Form 396. For stations with fewer than five full-time employees, the Form 396 requires a certification that the stations are in fact exempt from the Recruitment Program, and asks if there have been any complaints of discrimination against the station during the prior renewal term. For stations with five or more full-time employees, the FCC requires that the station, in addition to submitting the Annual Public File Reports and complaint information, to provide a written statement as to the success of its EEO program. The person in charge of the EEO program must also be identified on the Form.

(4) **Mid-Term Reports.** Television stations with five or more full-time employees and radio stations with more than ten full-time employees must also submit a Mid-Term EEO Report. That report requires information similar to the FCC Form 396, and is filed on the four year anniversary of the filing of the station's license renewal.

(5) **FCC Audits.** The Commission has promised to audit 5% of all broadcast stations annually. Since May of 2004, the FCC has been releasing audit notices about once every three months, with each list containing several hundred licensees. If a single station in an employment unit is selected for audit, the report for the whole unit must be submitted. In a typical audit letter, the FCC asks for the prior two years' Annual Public File Reports, and all background data supporting the wide dissemination and supplemental efforts detailed in those reports. The FCC also asks for information concerning the broadcaster's self-assessment of its EEO Program, and for details of any discrimination complaints.

### Section III: Self Assessment

One of the surprises of the FCC's audit process has been an inquiry as to how the broadcaster has engaged in **self-assessment of its EEO outreach program**. In truth, this should come as no surprise, as the rules specifically require that periodic self-assessment be conducted by each broadcaster.

Clearly, for FCC purposes, the most important aspect to this self-assessment is making sure that the Wide Dissemination being conducting is really bringing in a diverse pool of applicants. Broadcasters should review periodically the interview pools that it develops for every vacancy and insure that the pool includes applicants from a wide variety of recruitment sources. If the broadcaster finds that all of its interviewees, or all of the people that it hires, are from traditional broadcast sources, (e.g., consultants and word-of-mouth referrals), then it should re-evaluate its recruitment program, and identify other sources that are more likely to produce diverse applicants and interviewees. This evaluation should be done on an on-going basis.

In addition, the Commission requires that an employment unit assess the following:

1. Whether it regularly conveys its **EEO program** to employees and applicants.
2. Its **seniority practices**, to ensure that they are not discriminatory.
3. Its **salary and benefits** programs, to ensure that they provide equal pay for equal work and are not used in any discriminatory manner.
4. **Promotions**, to ensure that they are not based on any discriminatory practices.
5. Whether it has avoided any indication in **its recruiting advertisements** that there is any preference for persons of a particular race, national origin or gender.
6. **Union agreements**, if they exist, to make sure that they provide for equal opportunities for all.
7. **Selection techniques**, to avoid tests or other hiring evaluation techniques that could be discriminatory in effect.

The station employment unit should keep internal records of its self-assessment activities. In that way, if the station is selected for an audit, it will be able to provide details of how it has met its obligations under these rules.

## Conclusion

The FCC has made clear that EEO remains an important objective. Thus, broadcasters must use care to fully implement the program that the FCC has mandated and to periodically evaluate the station's program and policies to ensure full compliance with the rules. While the program may appear burdensome on first review, if the station establishes routine processes and procedures, many of the programs obligations can be met in the normal course of the station's business. A few adjustments here and there, and some record-keeping to document your efforts, are important to a successful program. Set up the systems and keep the records, so that satisfying the FCC's EEO Rules becomes second nature.

This advisory provides a broad summary of the FCC's EEO rules. For your reference, a **copy of the FCC's EEO Rules** is available as [Attachment C](#).

---

If you have any questions or for more information on your obligations, and practical compliance advice, please contact [Brendan Holland](#), [David Oxenford](#), or any of the lawyers in the Davis Wright Tremaine LLP [Radio & Television Broadcast Practice](#).

\*\*\*\*\*

Please note: our Washington, D.C. office address is changing. We are moving to the 8th floor of our current building. As of May 17, 2010, our new address and ZIP code will be as follows:

Davis Wright Tremaine LLP  
1919 Pennsylvania Avenue, NW, Suite 800  
Washington, D.C. 20006-3401



## **Disclaimer**

This advisory is a publication of Davis Wright Tremaine LLP. Our purpose in publishing this advisory is to inform our clients and friends of recent legal developments. It is not intended, nor should it be used, as a substitute for specific legal advice as legal counsel may only be given in response to inquiries regarding particular situations.