

WCDK (facility ID 40874) and WEIR (facility ID 40873) both with FRN of 0026959288 did not participate in station tours, public speaking at local schools, local festivals, job fairs, or internships due to Covid-19 and the pandemic. WCDK and WEIR did participate in training of its existing full time staff of five. The training consisted EEO requirements from the FCC. Those requirements are on the following pages.

1. We are supposed to list all full-time openings that we fill on the EEO Public File Report and list recruitment sources we contacted, but do you want only the sources that produced referrals?

No. On the form where you list all of your hires and sources contacted, provide a list of all sources that you contacted, whether or not they produced referrals.

2. Is it acceptable to rely only on word-of-mouth, industry referrals, or employee referrals for recruiting?

No. None of those sources are considered broad public outreach. You may use those sources, but only in addition to other outside recruitment sources, such as a state broadcast association website, job bank, job recruiting website, state employment office, local organization, college placement office, or other public sources.

3. Is there a minimum number of sources we can use that would constitute adequately broad recruitment?

There is not a set minimum number of sources. Generally, recruitment using only one source will not be considered to be adequate except in the rare case where it is exceedingly broad and wide-reaching, and is productive in generating referrals. Using more than one source is often more productive and reaches more potential applicants. The Commission, however, does not require that a specific minimum number of sources must be contacted.

4. Is it sufficient if we recruit by listing job openings on our own station website or licensee website, with nothing more?

No. Posting only to your own website(s) is likely too narrow a focus to constitute broad outreach to the community. The recruiting needs to attempt to reach a large cross-section of the broadcaster's own community. Depending on the community, an assortment of sources that target various demographic groups could be needed to achieve acceptable outreach.

5. If we have one sales associate opening and get several applicants, and can hire only one in May, but then another opening comes up in July, can we then hire our second choice from the May applicant pool without further recruiting?

Yes. If you recruit adequately in May, and get an applicant pool with more than one qualified applicant, you can hire more than one person from that pool over a short period of time. The key is how long you wait until the second hire. If it is more than three months, it might be too long a period, and you would need to conduct a second round of outreach and recruiting.

6. When we hire someone new for a full-time position, the new hire is always on probation for the first 90 days. If things do not work out, the hiree can quit with no notice or be fired with no notice. Does that mean all our hires are temps, and not subject to the EEO Rule, which applies only to full-time hires?

No. If you hire someone with the intention of keeping them permanently, it is considered a full-time hire and the hire is fully subject to the EEO rules, despite the probationary period. However, if you hire someone for 90 days, with the intention of keeping them for only 90 days, that would be a temporary hire and not subject to the EEO rules.

7. If we have a full-time opening and want to promote a part-time employee into that job without any recruitment, may we do so?

Possibly. The EEO rules do not require outreach for part-time positions; however, if you hired someone part-time after recruiting using broad outreach, then that person can be promoted to full-time status without further recruiting. If you did not use outreach recruiting when you hired the part time employee, however, as with any full-time opening, you must recruit using broad outreach before hiring for the full-time position.

8. If we want to transfer an employee at one station to another we own, or if we want to promote an existing full-time employee to another position, do we need to recruit first?

No. You can make a lateral transfer or a promote an existing full-time employee without recruiting.

9. What is an "exigent hire?"

An exigent hire is one made without recruiting because of an emergency need, or unique circumstances, such as when your top-rated DJ, who left two years ago, comes back and wants to work again and you feel this person is so desirable, you can't pass up the chance to hire him or her. It is permissible to make exigent hires, but they should be the exception, and not the rule. You may not use exigency as an excuse to hire someone without doing adequate outreach and recruiting.

10. I am a religious broadcaster. What am I required to file in response to an EEO audit letter?

A religious broadcaster is allowed to employ a religious belief or affiliation as a qualification for one, some, or all of its hires. A religious broadcaster is defined in 47 CFR Section 73.2080(a) as a licensee that is or is closely affiliated with, a church, synagogue, or other religious entity, including a subsidiary of such an entity. A religious broadcaster that does not require a religious qualification for any full-time staff is fully subject to the EEO rules if it employs five or more full-time staff. If it requires a religious qualification for any of its staff, it will still need to recruit broadly among those who meet the religious qualifications, and will still be prohibited from discriminating on the basis of race, color, national origin, or sex. A religious broadcaster does not have to do the outreach initiatives listed in 47 CFR Section 73.2080(c)(2) unless it has five or more full-time staff not subject to the religious qualification. For its hires subject to the religious qualification, the licensee needs to keep only records of the hire, sources contacted for the opening, the source of the hire, and the date of the hire.

11. My station had fewer than five employees for part of the filing period. Do I have to complete all two (or four) recruitment initiatives? (This same question applies to a station that was sold and purchased during the license term.)

The EEO recruiting requirements apply only to stations or employment units with five or more full-time staff. If your station or unit fluctuates between having five or fewer full-time staff, the rules apply only for the periods during which the station or unit has five full-time staff. In order to be required to complete two or more initiatives in a two-year period, the station or unit has to have five full-time staff for one entire year or more. For example, if you are required to perform four initiatives in two years, but you add up periods of having five full-time staff and those periods amount to only six months, you would not be required to do any initiatives.

In addition, when the FCC evaluates EEO performance, we look only to the performance of the current licensee, not what a previous owner did. Therefore, the period of current ownership is the only relevant period for us to review. One final note, whether a station or unit needs to create an EEO public file report depends on its status as of the due date for the report. If it has six full-time staff most of the year, but dips down to four on its report filing deadline of June 1, it does not need to file a report that year.

12. If my station has less than five full time employees, do my EEO requirements start with my fifth full-time hire or the sixth?

Once a station or unit acquires its fifth full-time staff member, then it must implement an EEO recruitment program and start keeping EEO records and file reports for all future activity.

13. Do I need to include promotions and part-time to full-time employees in my hiring information on my public file report?

You do not need to include promotions generally; you need to report full-time new hires.

However, if an open full-time position is filled by promoting an existing employee, you would be required to report that the open position was filled by promotion. A part-time employee may be promoted to full-time, but only if recruitment took place when that employee was first hired for the part-time slot. If there was no recruitment outreach for the part-time position, then there must be recruitment outreach to fill the full-time opening.

14. My company contracts out its hiring. What are my obligations?

As the licensee or the owner of the station, you remain accountable for the hiring of your staff.

You need to make sure that FCC rules are followed, even if you use an outside consultant to help manage staffing needs.

15. What is an employment unit?

An employment unit is a station or stations that share at least one full-time employee, are in the same market, and have the same owner or parent owner.

16. How can I file an amendment to the 396?

LMS does not allow amendments to Form 396. Instead of amending, you would need to file a new form. EEO staff will know to review the most recently filed form. If you submit a new revised form, it would be prudent to notify EEO staff so that we are aware of the new filing. We might have already reviewed the initial form, and we would not be automatically notified that a revised form has been filed.

17. My station is family operated. Can I hire a family member without outside recruitment?

If the family member is a sole or part-owner, they may be hired without recruitment. If not, and the new hire would be the fifth full time employee or if there are already five or more full time employees, there must be recruitment for this and all full-time openings.

18. How many "exigent circumstance" hires am I allowed to make during a license term?

There is no limit specified by the rules, but hires under exigent circumstances should be the exception, rather than the rule. A preponderance of hiring under exigent circumstances could be a red flag signaling that adequate outreach and recruiting is not being conducted.

19. What can we do to satisfy initiatives requirements if we aren't hiring or if we are actually reducing staff? We don't have any reason to attend a job fair.

There are options for satisfying initiatives requirements other than attending a job fair, and a number of alternatives not specifically related to hiring are available. In addition to job fairs, there are fifteen other categories of actions you can take to meet the requirement that you complete two or four initiatives in two years (see 73.2080(c)(2)). For example, if you are not hiring, you can engage in training or mentoring of existing staff, offering internships, sponsoring a scholarship, conducting station tours, having the station staff speak at a local school, or sponsoring a booth at a local festival.

20. If several stations or MVPDs in an area get together and sponsor a job fair, can we all get credit for completing an initiative?

Yes. If all of the entities actually participated in sponsoring the job fair and can document what each did, it is possible that they can all claim credit. The rules allow credit for co-sponsoring a job fair.

21. If a multiple station owner's personnel chief, who is responsible for hiring at corporate headquarters, participates in a job fair at a university, can all the licensee's stations claim credit for the job fair if no one who works at the stations participates?

No. In order for the stations to claim credit for participating in a job fair, someone with hiring authority for that station must attend. If the corporate personnel chief does the hiring for all of the stations, then they can claim credit.

22. If we hire four interns in June for the summer, can we say we have completed all four initiatives we have to do in two years?

No. One hiring session would constitute one intern initiative, regardless of how many interns were part of the hiring session. For example, if you hire four interns for the summer, and then have another session in January for the spring semester that includes three new interns, that would constitute two (rather than seven) total initiatives.

23. If we need to complete four initiatives in two years and end up with only two when we get a random audit letter, can we quickly do two new initiatives during a new two-year period and get credit?

You would get credit for the two new initiatives (if valid) only for the new two-year period. Failure to complete enough required initiatives during any given two-year period is a violation of the rules. A station or unit must complete two or four initiatives (depending on number of full time employees) out of the sixteen categories of initiatives during each twenty-four-month period, or face the possibility of a penalty.

24. For the initiatives that involve training, does the training itself have to be about EEO or labor law?

No. The training only needs to be job-related. For example, it can involve a staff member learning a new skill related to work, such as how to install cable boxes or handle customers who call in. It does not have to involve completing an entire course of study or involve large numbers of staff.

25. We have linked our EEO public file report to the online public file for our station on fcc.gov. Do we still have to link the report on our own station website?

Yes.

26. Has Form 397 been eliminated and what is the current status of a broadcast mid-term review for EEO?

The requirement to file Form 397 was eliminated in 2019. Licensees that already filed Form 397 during their current license term should retain the form in their online public file until grant of their next license renewal application. When the need to conduct mid-term reviews of stations' EEO programs arises again in 2023, Commission staff will conduct the reviews using publicly available information.

27. Our station does not have a website of its own, but the licensee has a website with links to a subpage for each of its stations. The regulation says EEO public file reports should be listed on a "station" website. Do my station's EEO public file reports therefore need to be listed on the station's subpage, which is reachable if someone clicks on the link from the licensee's website?

Yes. If a licensee includes links to its stations' subpages, the link essentially constitutes a "station website" for purposes of the EEO public file report.

28. What does a station with fewer than five full-time staff have to put in an audit response? Does it even have to respond to a random audit letter?

Yes, a station with fewer than five full-time staff has to respond to a random audit letter. Its response is shorter than others, however, because all we need are two things: a list of full-time staff listed by job title only (no names) and how many hours they are regularly assigned to work per week, and information on any discrimination charges that may have been filed against the station during the current license term.



29. My station recently received an EEO audit letter but we were audited less than two years ago. Do I need to respond to the most recent audit letter?

Possibly. First, review your response to the earlier audit and see what EEO public file reports were submitted to the FCC for review. If your two most recent reports would both be new in a response to the new audit, you will probably be required to respond fully to the new audit. If one or neither report would be new, in other words if FCC staff has already reviewed the reports you would submit with a new audit, you probably will not be required to respond. You should contact the EEO staff to see whether you need to respond.

30. My station's license was transferred or assigned to a new licensee during the EEO audit period. Do I need to respond to the EEO audit letter recently received?

Possibly. Contact the EEO staff to see whether we would have enough activity to review to make the audit meaningful or not.

31. If my station has uploaded its audit response to its FCC Public File page, does it need to submit the response to the FCC by any other method?

No. Some licensees, however, notify EEO staff when the response is uploaded into the station public file, but this notice is not required.

32. How does my station request an extension of time to respond to the audit letter?

Send an e-mail to the EEO staff and explain why you are requesting an extension of time and how long of an extension you are requesting. The EEO staff will respond. We will not grant a request for an unreasonably long extension of time to respond to the audit letter.

33. What is my facility ID#? Can I make up my own?

Facility IDs are assigned by the FCC, and you cannot choose your own Facility ID. You can find your facility ID number in the FCC's CDBS and/or LMS databases. If you need a facility ID, contact the EEO staff. The EEO staff issues ID numbers for MVPD units.

34. What is a public file report for an MVPD?

A public file report is an annual report summarizing EEO activity required for all MVPD units that have six or more full-time staff. The report must be included in the unit's public file (including its online public file on the FCC website) by September 30 each year. Requirements for the report are listed in 47 CFR Section 76.1702(b).

35. What is the payroll period I should use as the starting and ending point for the time period covered by Form 396-C? Is it a full year?

A payroll period forms the basis for the start and end of the EEO public file report. You choose a two-week payroll period from July, August, or September, and use that as the start of a 12-month period for reporting EEO activity on the report. Regardless of the payroll period chosen, the report is due on September 30 each year.

36. When filing an SIS (Supplemental Investigation Sheet) response if required in addition to Form 396-C, if we do not have any workers in a job category where you require us to list a job description, what do we do?

List the job description that you would use if you were to fill that position. If you have no positions in that category and would never fill such a job, then let us know.

37. Why does my form still say "valid" instead of "filed" even though I filed it two days ago?

It may be that you did not successfully file the form, or it may not have been loaded into the database yet. Sometimes it takes a day or two to get it in the system.

38. Our cable company does more than just cable. Am I still required to file a report?

The statute governing EEO rules for cable and other MVPDs states that it applies only to companies primarily involved in providing video services. If your company engages in other

activities, the EEO rules apply to you for only your MVPD service employees unless the primary purpose of the company is to do non-MVPD work. If that is the case, the EEO rules do not apply at all to your company.

## FCC applications

On August 12, 2021, Ohio Midland Newsgroup, LLC licensee of W235BX, 94.9 MHz, Colliers, West Virginia, filed an application with the Federal Communications Commission for assignment of the station license. Members of the public wishing to view this application or obtain information about how to file comments and petitions on the application can visit [this link](#).