

Navigating the FCC's Equal Employment Opportunity Rules: Questions from the Webcast

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The EEO Rules are very broad and detailed in the efforts required, the documentation needed, and reporting expected. A violation can result in serious penalties. Therefore, broadcasters should treat this aspect of FCC rule compliance with the same level of diligence, truthfulness and careful recordkeeping and reporting that they devote to their filings with any other government agency. Please note, the questions and answers below provide general advice regarding the EEO Rules. Stations should consult with their own legal counsel regarding all specific EEO questions and to ensure compliance with the FCC's Rules.

Question: Does participating in the MAB's EEO webcast count as training under item 14?

Answer: The FCC hasn't given a whole lot of guidance on this menu option, and the rule simply states: "Provision of training to management level personnel as to methods of ensuring equal employment opportunity and preventing discrimination."

But yes, I do think the MAB's webcast seminar would count if management level personnel participated. And I think it would be even better if the station also had some additional training of this kind during the two year period such that this Webinar combined with another seminar or two (maybe about state EEO issues, etc.) would check this item off the menu.

Wide Dissemination & Job Postings

Question: If a station does due diligence in wide disseminations for recruitment, yet still selects an internal candidate for the position, does the station need to report its justification for inclusion in the public file? Are there any hires that would require justification for inclusion in the station's public file?

Answer: No. You do not need to include any justification for the hire in the public file.

Question: What about recruiting on Facebook or LinkedIn? Is an individual station's facebook or myspace page considered "the web" for announcing openings? What are the FCC's thoughts on that?

Answer: There is no FCC guidance on that issue that I'm aware of, but I see no reason why you couldn't use those methods as another recruitment source (akin to the station's own website). Just make sure you have enough sources collectively to ensure wide dissemination of the job opening information.

Question: What should someone do if they step into take over the HR position, and the resource list is populated, but there is no documentation as to whether or not they requested the postings?

Answer: I would suggest that you try to recreate the documentation for the outreach that was done to advertise the positions that were filled. For example, contact the sources used and ask for copies of the correspondence that the prior HR person sent to them; get copies of the ads run in the paper; obtain copies of the postings made to job boards, etc.

Question: I have had an entitled source since 2005. The last posting sent to them by email came back undeliverable. I attempted five times, through email, letters and phone calls to reach someone at the organization and all my attempts have gone unanswered. I have documented all of this. Is it safe to remove them from the list? In five years, we did not receive one referral from the source.

Answer: There is no clear guidance from the FCC as to when it is okay to remove sources that have requested notification. But you mentioned sending them a letter. If the organization is still in existence and you have a valid mailing address for them, then you should simply send the job opening notices to them by mail rather than email.

Question: What if the recruitment sources that request information from the SEU charge money to post job notifications? Are we still required to post with them?

Answer: I haven't seen guidance from the FCC on this particular issue, but the station's obligation is to send the job opening information to qualified organizations requesting notification. So if you send them the info, the station has complied with the FCC's Rules. Whether or not the organization actually shares that info with its members/job seekers is immaterial. And I don't see an obligation for you to pay those sources to post your listing. However, you might decide it is a good resource and choose to use their service as one of your recruitment sources.

Question: Would an on-air announcement that makes general reference to openings suffice to fill an outreach requirement or would we need an on-air piece for each opening?

Answer: I think a spot for each particular job opening is preferable.

Question: If we are hiring for multiple sales positions, do you need to state that in your wide dissemination? Or if you are hiring for one position, and someone else leaves during the same time, do you have to start the process over again or pull from the same pool?

Answer: I'm not aware of any guidance from the FCC about this, but I don't think you must state before hand that you intend to hire for two (or three or four) positions. If you have a viable pool of candidates collected through wide dissemination and make two hires instead of the one originally expected, I think that's fine.

Question: What if I hire a woman or minority without widely advertising the position? Is that OK?

Answer: No. The FCC's rules require wide dissemination of all full time positions. You don't get a "free pass" from that obligation if you hire a woman or a minority.

Question: What paper trail do you need to retain if you decide to not fill a position and abandon a search that has already begun?

Answer: The FCC's Rules do not require a specific action, and ultimately, the FCC is only interested in full time positions that you actually fill. So, if circumstances change and you choose not to fill an opening that you originally intended to fill, the FCC's Rules do not call for any particular documentation.

Question: We do phone interviews as a way to narrow down our candidates, do these count as interviewees on the EEO report?

Answer: Potentially. If you consider them to be true interviews, then I don't think it matters if they are conducted by phone, in person or by Skype.

Question: If a station is continuously hiring for sales, how often would you recommend the station re-post for the position(s)?

Answer: There is no clear guidance from the FCC on situations where stations continuously hire for high-turnover positions. But I would make sure that you post the position as often as necessary to ensure that the pool of applicants is current and viable.

Question: In our recruitment announcement should we NOT say that minorities and women are encouraged to apply?

Answer: It is not required by the FCC's Rules. But if you chose to include language along those lines, I think the better phrasing might be that the station is an equal opportunity employer and welcomes all qualified candidates.

Question: Most of our employees have been here longer than seven years, what would my documentation requirements be for those employees?

Answer: If I understand the question correctly, no documentation would be required for those pre-existing employees. Outreach and documentation is only required in connection with full time job positions that are opened and filled at the station going forward (i.e., following the establishment of the EEO rules).

Question: Are we required to keep paperwork associated with ALL applicants on file or just the ones for the people we actually interview?

Answer: The FCC's Rules require stations to track information pertaining to interviewees and hires. So you don't need to track info about every person who applied for a job, just those you interviewed and hired.

Question: How important is it to have a contact name and mailing address for internet sources?

Answer: The FCC's Rules call for the name, address, contact person and telephone number for each recruitment source, so you should strive to make the information as complete as possible.

Question: If a position is posted and someone is hired, then they leave within one year- does the position need to be re-posted?

Answer: If you intend to re-open the position and try and fill it again, then yes, I would think you'd need to widely disseminate and recruit again for the position.

Question: What if you find out that you have a position that you should have interviewed for, but didn't... and now the position is filled, what do you do then?

Answer: I'm not sure there is anything to be done to rectify a situation where the station overlooked the need to widely disseminate and recruit for a position before it was filled.

Question: Regarding advertising of positions, do I actually need copies of the newspaper ads for each day they ran or just the bill for the placement of the ad?

Answer: The FCC's Rules call for maintaining "dated copies of all advertisements, bulletins, letters, faxes, emails or other communications announcing vacancies." So I think either a copy of each dated advertisement, or one copy of the actual ad along with the invoices or other proof showing the dates that the ad was run in the paper would suffice.

Question: What is the procedure to remove non-productive resources from the station's master recruitment source list?

Answer: If the source has not specifically requested that the station send it information about future openings at the station, but rather, is just a resource that the station itself has identified, the procedure is to simply remove them from your list. However, before eliminating or changing any sources, you should be careful to review the list of remaining resources to ensure that the group of sources is reasonably calculated to widely disseminate information about the opening to the entire community.

Internships & Job Fairs

Question: In regards to prong 3 of compliance, can you count your internship program every time (every two years) if you have at least one intern during that time, or can you only count the program once, when it was established?

Answer: The FCC has provided little guidance about the non-vacancy outreach efforts, but I would argue that if it is an on-going, active internship program, then yes, it should count as one item every two years.

Question: Does the internship program have to be for students only?

Answer: I do not think it absolutely has to be restricted to students only. However, I do think that an internship, by definition, implies a student who is getting training applicable to their course of study in exchange for volunteering.

Question: Do high school job fairs count?

Answer: Yes, I think they could, especially if you would ordinarily recruit employees or interns from attendees at the job fair. And I think it would also qualify under item ten on the FCC's list of menu options.

Question: Do station tours for elementary or middle schools count as outreach?

Answer: Again, little guidance from the FCC in this area, but yes, arguably they would count under item ten on the FCC's list of menu options.

Question: What if you have an intern, and you want to hire them. They have never been an employee, but have interned. Do you still have to widely disseminate and interview?

Answer: Yes, I think you should widely disseminate and interview for the full-time position that you have open and then consider the intern along with any other qualified applicants.

Question: Our SEU has funded our own scholarship program with \$25,000, is that substantive enough?

Answer: If your station employment unit has established its own scholarship program that it administers and which it has funded with \$25,000, then yes, that should suffice.

EEO Policies & EEO File

Question: I am uncertain about posting our EEO policies on the station website, is that mandatory or can we just advertise the opening there?

Answer: No, it is not required. The FCC's rules require only the posting of the station's current Annual Public File Report on the station's website (if it has a website). The posting of anything else, such as full time job openings or the company's EEO policies, is optional.

Question: What happens if our EEO report posted online is incorrect and we need to correct the omission? Do we just re-post it immediately? Do we get fined?

Answer: I would suggest that you revise the report and re-post it (and place it in the public inspection file), perhaps with a notation that the report was originally posted on X date, and revised and re-posted on Y date to correct a typo, an omission or whatever the case might be. It might be advisable to keep a copy of both the original version and the revised copy of the EEO Report in the station's public inspection file.

Station Employment Group

Question: If two stations within 30 miles of each other are owned by the same individual, and share a majority of their employees- is that considered all one station in counting five full-time employees or are they considered two?

Answer: It depends. Do they serve the same "market"? If so, then yes, the two stations form a single station employment unit if they are commonly owned and share at least one employee, as you've mentioned.

Full-Time Employee- FCC Definition

Question: If the FCC considers a 30-hr employee full-time, should that be the same for the employer or can the employer still consider less than 37.5 hours part-time?

Answer: The 30 hours plus definition is only for purposes of the FCC's EEO rules.