

FCC Actively Enforcing Broadcast EEO Rules

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While the Federal Communications Commission (FCC) may be modernizing many of its rules governing broadcasters, a recent, sizable fine serves as a reminder that the agency will enforce those laws on the books. In a Notice of Apparent Liability for Forfeiture (NAL) issued earlier this week, the FCC proposed a \$20,000 fine against a broadcaster for violation of its Equal Employment Opportunity (EEO) rules and would subject it to three years of special EEO reporting requirements. Given this action, broadcasters should pay particular attention to their EEO compliance programs. We are glad to assist with any questions you may have, or to discuss with you our online training options for hiring managers or others within your company.

The FCC's recent NAL was based on the following apparent rule violations:

Failure to recruit (\$6,000): The FCC's rules require broadcasters to widely distribute information about full-time openings throughout their communities, using external recruitment sources. In this case, the licensee apparently failed to recruit for six of 11 vacancies over a two-year period. Note that the FCC considers relying solely on private contacts, such as word-of-mouth referrals, to be no recruitment whatsoever.

Failure to notify an "entitled" source (\$2,000): Once a qualified organization affirmatively asks a broadcaster to provide it with notice of full-time job vacancies, under the FCC's rules, that organization is entitled to receive the notice. In this case, the broadcaster apparently failed to notify its one entitled source for 7 of the 11 vacancies.

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Failure to retain interviewee data (\$2,000): For each full-time job vacancy, the FCC requires licensees to record the total number of interviewees as well as the recruitment sources referring each interviewee. While the broadcaster in this case argued that the required information was removed without permission after an employee's dismissal, the FCC was not persuaded, and concluded that the licensee apparently violated the EEO recordkeeping rules for 10 of the 11 vacancies.

Failure to include the required information in the EEO Public File Report (\$2,000) and the stations' local public inspection files (\$2,000): Each year, broadcasters must create an EEO Public File Report to summarize their recruitment efforts and to provide related data. The report must be placed in the public inspection file and posted on the station's website. Because the licensee lacked the aforementioned interviewee data, it was fined for both a deficient EEO Public File Report and omissions from the public inspection files.

Failure to self-assess its EEO program (\$2,000): Licensees are expected to assess their recruitment programs to ensure that they are effective in achieving broad outreach, and to address any deficiencies. Given the licensee's lack of interviewee data in this case (which helps licensees understand the productivity of their employment outreach), the FCC found that it was not possible for the broadcaster to assess its performance.

History of EEO violations (\$4,000): This NAL represents the third time this particular broadcast company has been found to violate the FCC's current EEO rules. Because the FCC concluded that this company "continued violating EEO rules," it added a \$4,000 penalty for the licensee's "history of prior offenses."