

EQUAL OPPORTUNITY FOR EMPLOYMENT
(An Affirmative Action Policy Statement)

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The Lutheran Church--Missouri Synod and its component parts (Districts, boards, agencies, institutions) is obligated by the demands of Christian conscience, as well as by legislative requirements, to ensure equal opportunities for employment without regard to race, color, religion, sex, or national origin except as these are bona fide qualifications for job performance. This must be a high priority among the objectives of every member of the Synod's family of employees. It is a particularly acute responsibility of every individual who is involved in the recruitment, selection, training, supervision, and evaluation of synodical employees.

Because we are a church body certain positions demand extensive understanding of and commitment to the doctrinal view of the Synod. For such situations it is necessary for us to seek out individuals with specific religious training. However, religious affiliation shall be a criteria for employment only in those specific positions.

Our commitment to equal opportunity recognizes two basic concepts: non-discrimination and affirmative action.

The recognition of non-discrimination demands the elimination of all prohibited discriminatory conditions, whether purposeful or inadvertent. The Lutheran Church--Missouri Synod is pledged to the careful and systematic examination of all its employment policies to be certain that such policies do not operate to the detriment of any individual on the grounds of race, color, religion, sex, or national origin.

Our commitment to Affirmative Action prompts us to do more than ensure neutrality with regard to race, color, religion, sex, or national origin. The Synod is pledged to programs which place special emphasis upon our efforts to recruit, employ, and promote qualified members of all such groups.

Our recognition of these two basic areas of responsibility prompts us to establish and utilize programs and policies which guarantee to all persons, whether or not they are members of designated "minority groups," equal opportunities for employment, advancement, and related benefits.

Those programs and policies related to our Affirmative Action commitment shall be designed to enhance the employment and advancement opportunities for women and minorities. However, no overt attempt shall be made to eliminate or dilute standards which are necessary for successful performance of job functions. Our Affirmative Action program does not require that we employ or promote any unqualified person. The Synod recognizes its responsibility to foster reasonable standards and procedures which govern all employment, training, and promotion practices. We are dedicated to the concept through which any tests or other criteria by which qualifications for appointment, retention, or promotions are judged shall be valid predictors of job performance without bias toward race, color, religion, sex, or national origin.

This commitment does not ignore or obviate the range of permissible discretion which has characterized employment judgment. There are real and proper limitations on the extent to which criteria for certain non-routine positions can be explicitly articulated. However, we shall monitor all such discretionary judgments to eliminate arbitrary and discriminatory employment decisions.

The Synod further pledges itself to ensure non-discrimination in all terms and conditions of work assignments, educational and training opportunities, use of facilities, and career advancement. Those employees who are performing jobs to which the Equal Pay Standard applies shall be compensated accordingly. Employees performing jobs requiring equal skill, effort, responsibility, and having the same degree of accountability shall be granted equal rates of compensation without regard for race, color, religion, sex, or national origin.

Part II IMPLEMENTATION OF THE AFFIRMATIVE ACTION POLICY STATEMENT

The Department of Personnel and Human Resources, as the corporate service organization for employment matters, necessarily plays a key role in the Affirmative Action Program. The Director of Personnel and Human Resources shall have responsibilities for overall administration of these policies and shall be subordinate to the Board of Directors through its Administrative Officer who shall assume ultimate responsibility for the Affirmative Action and Antidiscrimination policies of the Synod. The Board of Directors appoints Mr. William J. Barge as Affirmative Action Officer.

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Director of Personnel and Human Resources shall have responsibilities but not necessarily limited to:

1. Developing policy statements, Affirmative Action programs, internal and external communication techniques.
2. Assisting in the identification of problem areas.
3. Assisting boards, commissions, and operating department heads in arriving at solutions to problems.
4. Designing and implementing audit and reporting systems that will:
 - a. Measure effectiveness of the programs.
 - b. Indicate need for remedial action.
 - c. Determine the degree to which the goals and objectives have been attained.
5. Serve as liaison between the Synod and enforcement agencies.
6. Serve as liaison between the Synod and minority organizations, women's organizations, and community action groups concerned with employment opportunities of minorities and women.
7. Keep management informed of latest developments in the entire equal opportunity area.

Each board, commission, and operating department head shall ensure that the department is in compliance with all aspects of the Synod's policies of non-discrimination and Affirmative Action and shall assist all supervisors to administer all company policies in a manner which guarantees fair, just and equal treatment for all individuals regardless of race, color, religion, sex, or national origin. In so doing, the responsibilities of each board, commission, and operating department head shall include but not be limited to:

1. Assistance in the identification of problem areas and establishment of departmental employment goals and objectives.
2. Periodic audit of training programs, and hiring and promotion patterns to remove impediments to the attainment of goals and objectives.
3. Regular discussions with supervisors and employees to be certain the policies are being followed.
4. Review of the qualifications of all employees to ensure that minorities and women are given full opportunities for transfers and promotions.
5. Career counseling for all employees.
6. Periodic audit to insure that minority and female employees are afforded a full opportunity and are encouraged to participate in all sponsored educational and training activities.
7. Unit Executives and supervisors should be made to understand that their work performance is being evaluated on the basis of their equal employment opportunity efforts and results, as well as other criteria.

CHRISTMAS GIFTS

It is the policy of the Synod not to grant annual Christmas gifts or bonuses, but to provide for an ongoing equitable salary structure review.

RENTAL AND UTILITY ALLOWANCE FOR MINISTERS OF RELIGION

The Board of Directors has established as housing allowances for ministers of religion serving on the synodical staff, the following:

1. An amount equal to 50% of each minister's gross cash compensation shall be treated as housing allowance for the purpose of paying all housing costs of every kind.
2. Each minister shall be entitled to petition the Board of Directors prior to its last meeting in each calendar year for a supplemental housing allowance in such amount as that minister might anticipate will be necessary in the immediate following calendar year to pay costs of housing which he anticipates will not be covered by the allowance available to him pursuant to the previous paragraph of this resolution.
3. With respect to the foregoing provisions, the appropriate percent shall be applied to each minister's actual annual compensation from the Synod during the appropriate calendar year, and by this action, taken in advance of any payment, such is deemed to include increases in compensation during such a year, but only for those months during such year that such increases are applicable. Actual annual compensation shall include any amount which, although first withheld, is later refunded to the minister because of the "offset" requirement of the Concordia Plans.
4. With respect to any newly employed minister for whose benefit a rental allowance has not previously been determined, this policy shall be effective immediately upon the effective date of his employment. In the event that the newly employed minister needs to petition for supplemental housing allowance as outlined in number 1 above, such petition may be presented to the Board of Directors at its first meeting after the date of employment.
5. The rental allowance of a minister who has been on sabbatical for all or a portion of the year shall be the dollar amount resulting from applying the appropriate percentage above to the gross total compensation he would have received had he not been on sabbatical.

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DATE: March 9, 1989
TO: Paul Devantier
FROM: Tom Lauher
RE: LICENSE RENEWAL

Preface

I continually examine all aspects of station operations with respect to license renewal and report on them to the Director of Broadcast Ministries. I understand you received a verbal report previously from the Director of Broadcast Ministries about some or all of these matters. I am now providing to you a summary, description of current status, newly implemented actions, recommendations, and conclusions.

This report is the result of on-going personal review and reading, attendance at two different renewal seminars, consultation and communication with Arnold & Porter and conversations with employees regarding past practices. It represents, to the best of my knowledge, a comprehensive review of performance, recommendations for improvements, and an outline of areas in which there is concern. All such concerns are included in this report; I know of no others.

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The report and accompanying material provides background, outlines potential problems, addresses implications and offers solutions as we move into the critical license renewal time. We are taking action now to address specific concerns outlined below. Failure to do so could create significant jeopardy in license retention. If the concerns are not addressed quickly, the worst possible consequence is loss of license.

Some of what follows in this report includes KFUD-AM because in some instances KFUD-FM and KFUD-AM are operating under a combined situation with respect to regulations, compliance, etc. For example, both stations operate under a combined EEO Program.

If one message rings clear from all information sources it is: "It may be deregulation, but the same rules apply." Deregulation has actually enhanced the potential for renewal challenges by simplifying the procedure. The FCC assumes compliance but the license holder must be prepared to prove compliance with the same rules and regulations as before. What this really means is that if challenged the license holder is presumed "guilty" until proven "innocent." The responsibility for proof of compliance is solely ours.

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According to Arnold & Porter, our Washington law office, the FCC does not take into account ownership, as such, but only how the ownership has performed its responsibilities to serve the community of license and surrounding area. Format is not a consideration in the renewal process either. This means the FCC is not concerned about whether the programming itself is religious, classical, talk or even rock and roll. It is, however, concerned with how quality and content serves the community of license and surrounding area. For instance, living up to license promises on the part of a rock and roll station is more desirable to the FCC than a classical or religious station failing to live up to its obligations.

The NAB Legal Guide to Broadcast Law and Regulations warns, "The current renewal process permits parties to file petitions to deny and/or competing applications against renewal applicants even if the renewal applicant has fully served its community and complied with the Communications Act and the FCC's policies and rules. Accordingly, a licensee should take prudent steps to ensure that a prospective applicant has no reason to file against its license." Congress eliminated dollar lists on settlement agreements in 1982, so the current system encourages challengers to demand large sums of money for agreeing to withdraw a competing application.

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A recent "Counsel from the Legal Department" NAB memo advises "... incumbent licensees should arm themselves for comparative renewal combat."

Survey of Ownership

Current laws call for a survey of ownership. Ownership is defined as officers, directors and anyone with 10% or more ownership with the license holder. The survey is to determine if anyone connected with ownership has violated the law. The station is to obtain responses in writing to place on file. Arnold & Porter recommend we do this two months prior to renewal filing date. If not performed, we are not fully satisfying requirements. The FCC looks closely at the complete ownership report. This means each member of the Synod Board, not members of the Standing Committee, will need to fill out the appropriate survey as we move closer to renewal date. Our attorney will provide an appropriate form.

Radiation Standards

This is an area where the FCC and enforcing agencies show great concern. I am told by John Fischer we are in full compliance with the AM tower and have substantiating evidence to the effect. I have asked John to review this with me. I can set a time so you can join us.

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For FM, the owner of a joint tower has first responsibility for compliance but it is up to the tenants, together or individually, to make sure of compliance. John Fischer has been requested to obtain in writing from the tower owner certification of proper performance in meeting radiation standards. Under normal contractual circumstances the last on the tower is under obligation to check compliance. We will do so.

EEO Compliance

This is the most critical area in license renewal. As Matthew Leibowitz said at the Missouri Broadcasters Association fall seminar on renewal: "Numbers do not work anymore. Now the FCC looks for affirmative action based on the EEO program model currently on file as developed by the station. The question is: Is the station following its own plan?" Marsha Cranberg agrees with the seminar view. As described below there are plenty of areas for improvement in our compliance. At the time the AM and FM operations were absorbed into the Synod certain procedures, forms, job descriptions, etc. were introduced which inadvertently put the stations in a non-compliance situation.

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At the very least separate employment applications and hiring criteria should be in place for KFUD-FM (also KFUD-AM). Cranberg stated that even a requirement that an individual be a Christian would be deemed to have racial overtones.

We operate, of course, under a continuous requirement as a licensee of a commercially operated FM, and non-commercially operated AM with commercial license, to afford equal opportunity "to all qualified persons, and no person shall be discriminated against in employment by such stations because of race, color, religion, national origin, or sex." As a licensee we shall "... establish, maintain, and carry out a positive continuing program of specific practices designed to ensure equal opportunity in every aspect of station employment policy and practice."

All commercial broadcast license holders are subject to the same rules and regulations. As Marsha Cranberg of Arnold & Porter indicated in a telephone conversation: "The better part of safety is to comply with EEO for both FM and AM unless a reasonable argument with respect to AM can be advanced and the commission has previously waived requirements for similar situations." She knows of no similar situations that might apply.

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Cranberg states: "We are to keep in mind the FCC and EEO do not look at format but only at compliance to Section 73.2080 Equal Employment Opportunities which outlines the FCC's EEO requirements." Cranberg recommends separate EEO Programs for FM and AM. She says that although a single EEO Program could suffice it "would make sense, especially in light of specific AM religious considerations in hiring" to separate the EEO Programs at the next filing (May, 1989).

The NAB Legal Guide states: "... broadcasters are held to a higher EEO standard than most other private employers. Unlike most other businesses, broadcasters must comply with EEO requirements, not only as a matter of federal law, but also because the FCC reviews station compliance as part of the license application and renewal process." The guide explains the FCC can and does review broadcasters' EEO records periodically. If the record is thought to be inadequate, the FCC may take various actions, including denial of license renewal.

I have discovered we are operating in violation of our own policy as currently on file. I have reason to believe this applies to the AM operation as well as the FM operation.

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I have taken steps in good faith to assure full compliance in FM. I shared with Jerry Housholder those steps taken on FM.

Our performance compared to our EEO promises filed with FCC is as follows:

1. Responsibility for Implementation

Rev Rodger P. Abatie, General Manager KFUO-AM & FM is shown as the individual responsible for administration and implementation of the EEO Program. The Director of Broadcast Ministries has been, of course, the person responsible since Rev Abatie is no longer with the station. Rev Abatie's name was not replaced on the form during the time Ken Lombardi served as Director of Broadcast Ministries. Now that the director's position is vacant since Ken's departure last month, I suggest we follow Cranberg's recommendation to separate the EEO Program with myself responsible for administration and implementation on FM. This means KFUO-AM will be required to file its own program and designate an individual responsible for administration and implementation of the AM's program.

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2. Policy Dissemination

KFUO-AM and FM's EEO Program states: "The stations' employment application form contains a notice informing prospective employees that discrimination because of race, color, religion, national origin or sex is prohibited and that they may notify the appropriate local, state or federal agency if they believe they have been the victims of discrimination." Somehow, this was dropped at some point when revised application forms were printed. It has been reinstated on a new form.

Other segments of the current application fail to meet standards of the program and do not comply with regulations as outlined in the EEO Handbook for Broadcasters. As Matthew Leibowitz said at the MBA fall seminar: "Remember, this is your own station's program, not the FCC's. So make sure you're doing what you said you would do." We are doing this with the new form implemented 2/28/89.

3. Other Areas

Essential requirements for job descriptions, according to the EEO Handbook: A Practical Guide for Broadcasters, should be job specific, held to a minimum and be completely objective.

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As the Guide states: "Subjective considerations have little place in the employment process; they lead to arbitrary, if not discriminatory practices, and serve as signs of discrimination. The touchstone must be objectivity." Accordingly, job descriptions for KFUD-FM have been reviewed and changed where necessary to be sure none include subjective considerations and all essential position qualifications are and remain job specific.

I have shared most of these concerns with and sought the opinion of, our Washington attorney. She is receiving a copy of this memo. I felt it important to inform you and get this action underway quickly in order to protect the best interests of the LCMS.

CC: Dennis Stortz
Ron Klemm
Bob Thomson
Paula Zika ✓
Jim Rice

CLASSIC 99

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DATE: March 15, 1989
TO: Paul Devantier
FROM: Tom Lauher
RE: EEO COMPLIANCE

The attached "Review of Defensive Measures" is taken from the EEO Handbook, A Practical Guide for Broadcasters.

Out of the 130 measures listed, KFUD-FM has implemented or completed 79. Ten of the measures appear to be "Not Applicable" to our situation. The remaining 41 measures are currently being reviewed to see whether the action has been taken, needs to be taken or is not applicable to our situation.

CC: Dennis Stortz
Ron Klemm
Bob Thomson
Paula Zika ✓
Jim Rice

Enclosure

REVIEW OF DEFENSIVE MEASURES

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There is no 100% safe way to avoid equal employment opportunity difficulties, but there are ways of minimizing the odds that problems will occur. You will do much to avoid problems if you understand the concepts outlined throughout this handbook and take the preventive measures suggested.

The following is a quick, capsule guide to those suggestions.

General

- ✓■ Take EEOC matters seriously. Too many companies consider equal employment a joke until they get a lawsuit.
- ✓■ Evaluate all employment practices, and eliminate those that have an adverse impact on women and/or minorities.
 - Establish an EEO officer to implement your station's EEO program and to keep current on developments in the law.
- ✓■ Eliminate any job qualification that has an adverse impact on women or minorities and is not job-related.
- NA■ Validate any test that has an adverse impact on women or minorities.
- ✓■ Monitor your wage schedules and classifications to ensure that men and women performing equal work are receiving equal pay, and that women and minorities are not always at the lower end of the scale.
- ✓■ Evaluate job descriptions and employment practices to ensure that they do not reflect unlawful stereotypes.
- ✓■ Make sure that women and minorities have the same opportunity to obtain favorable assignments as white males.

NA ■ Apply dress and appearance codes evenhandedly to female and male employees.

NA ■ If your station uses a consultant to evaluate on-air talent, be sure to retain a firm which uses well-recognized survey techniques. Review the survey techniques to ensure that no unlawful bias is involved.

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✓ ■ Do not take any discriminatory action in an effort to satisfy a perceived audience preference.

✓ ■ Make all employment decisions on the basis of objective, job-related considerations, and be consistent.

■ Maintain personnel files on all employees, including their applications and/or resumes, performance and attendance/tardiness records, evaluations, disciplinary records, etc.

✓ ■ Develop a climate in which comments based on racial or sexual stereotypes are completely inappropriate.

For FCC Purposes

✓ ■ Prepare and adopt a written EEO policy statement and program. (See Chapter Two.)

■ Establish a procedure for reviewing and controlling managerial and supervisory performance under your EEO program.

✓ ■ Inform your employees about your EEO policy and program, and ask for their cooperation and assistance in the station's efforts to recruit, hire, and promote qualified women and minorities.

✓ ■ Review your employment application form and delete any language that may suggest or imply that you consider non-job-related factors in hiring decisions.

✓ ■ Place a notice on your employment form in bold print, informing job applicants that discrimination is prohibited, and that persons who believe they have been discriminated against may notify appropriate governmental agencies.

■ Include a copy of your EEO program in personnel manuals and employee handbooks.

■ Communicate your station's EEO policy and program and your employment needs to sources of qualified applicants without regard to race, color, religion, national origin or sex, and solicit their recruitment assistance on a continuing basis.

■ Maintain a list of the recruitment sources you will use in seeking qualified female and minority applicants.

■ Review your list of recruitment sources on a regular basis to determine whether they have been productive. Add new sources and eliminate non-productive ones.

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- Maintain written records of all the referrals made by your recruitment sources, and inform recruitment sources, in writing, of the disposition of applicants they have referred.
- ✓ ■ Place employment advertisements in publications with a significant circulation among, or of particular interest to, minorities and women.
- ✓ ■ Include in every help-wanted advertisement a notice that you are an equal opportunity employer, and draft advertisements carefully so that they do not indicate, either explicitly or implicitly, a preference for one sex over another.
- ✓ ■ Consider the establishment of an on-the-job training program to upgrade skills of current employees and to make them eligible for promotion to higher level positions within the station.
- ✓ ■ Maintain statistical data regarding the race, sex, and national origin of referrals, applicants, and employees.
- ✓ ■ Review all of your personnel policies and procedures, including tests, education and experience requirements, and similar employment prerequisites, to discover and eliminate all potentially discriminatory requirements and/or criteria.
- ✓ ■ Conduct a continuing campaign to exclude every form of prejudice or discrimination based upon race, color, religion, national origin, or sex from the station's personnel policies and practices and working conditions.
- Conduct a continuing review of your job structure and employment practices, and adopt positive recruitment, training, job design, and other measures to ensure genuine equality of opportunity to participate fully in all organizational units, occupations, and levels of responsibility throughout the station.
- Make sure that your EEO Officer is familiar with all the technical aspects of the EEO laws applicable to your station.
- Make sure that department heads and supervisors are familiar with their EEO obligations.
- NA ■ If your station is located in a community with a significant population of persons who do not speak English, post EEO notices both in English and in other significant languages.
- NA ■ If you recruit at schools and colleges with a significant female and/or minority enrollment, utilize at least some female and minority recruiters.
- ✓ ■ Establish systems and procedures for evaluating and monitoring your EEO performance on a regular basis.
- If your employment profile is deficient, determine why and take remedial steps.
- Document all EEO efforts. (See Chapter Nine.)

Sexual Harassment

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- ✓ ■ Establish and disseminate a policy regarding sexual harassment.
- ✓ ■ Develop appropriate sanctions for employees who engage in any form of sexual harassment.
- ✓ ■ Prepare and distribute a memorandum to supervisors advising them of the station's policy regarding sexual harassment.
- ✓ ■ Designate a person or committee to whom employees can bring their complaints about sexual harassment.
- ✓ ■ Inform employees of their right to complain about sexual harassment, and explain how they can pursue complaints within the station.
- ✓ ■ Investigate promptly and thoroughly any complaint or other evidence of possible sexual harassment.
- ✓ ■ Take prompt and appropriate disciplinary action against any employee who engages in sexual harassment and keep a record of the discipline imposed.
- ✓ ■ Do not allow sexual jokes, teasing, or innuendo to become a routine part of the work environment.

Pregnancy Discrimination

- ✓ ■ Review existing benefit and leave policies to ensure that pregnant employees are not treated differently from other employees.
- ✓ ■ Revise employment and personnel policies to make explicit that employees with pregnancy-related medical conditions will qualify for benefits in the same manner as all other employees.
 - Establish a policy regarding voluntary parental leave and apply it consistently to male and female employees.
- ✓ ■ Do not insist that a pregnant employee take leave if she and her doctor agree that she is capable of performing her job.
- ✓ ■ Provide pregnant employees with the same accommodations made for employees with other temporary medical disabilities.

Age Discrimination

- ✓ ■ Include age in your policy against discrimination.
- ✓ ■ Never allow age to be a factor in any employment decision.
- ✓ ■ Record any problems with an aging employee's performance, in order to objectively determine whether he or she is capable of continued employment.
- ✓ ■ Never rely on an older employee's "slowing down" or being "out of touch" with the industry as a basis for discharge or layoff.

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Religious Discrimination

- ✓ ■ Disregard the religious beliefs or practices of applicants and employees in making decisions to hire, promote, transfer, assign, discipline, or discharge.
- ✓ ■ Consider methods of accommodating employees' religious beliefs and practices. Explore all possible methods of accommodation before refusing accommodation.
- ✓ ■ Consider carefully before imposing a dress or appearance code that may infringe upon employees' religious beliefs or practices.
- ✓ ■ Frame pre-employment inquiries carefully, so that members of certain religions are not excluded from your applicant pool.
- ✓ ■ Maintain flexibility in the scheduling of interviews and/or application periods, so that members of particular groups will not be excluded from applying.

National Origin Discrimination

- NA ■ If you wish to require proof of citizenship, require it from *all* employees.
- ✓ ■ Do not refuse to hire non-citizens if the impact of that refusal is to exclude individuals of a particular national origin.
- ✓ ■ Do not require fluency in English unless it is reasonably necessary to the job.
- NA ■ If you maintain a rule requiring employees to speak English in the station, draft it carefully. Specify the business reason for the rule, give employees notice of the rule, and inform them of the discipline that will result if they violate the rule.

Handicap Discrimination

- Ascertain whether your station is covered by laws prohibiting discrimination against the handicapped. If so:
 - Review and revise employment criteria to ensure that they do not tend to screen out qualified handicapped individuals.
 - Eliminate pre-employment inquiries as to handicap status or the nature and extent of a handicap.
 - Consider what reasonable accommodations can be made for handicapped employees without imposing an undue hardship on your business.

Hiring

- ✓ ■ Prepare a written job description for each position in the station, specifying all essential job requirements.

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- Where appropriate, post notices of vacancies in the station, and afford current employees the opportunity to apply for promotion.
- Contact minority organizations, organizations for women, media, educational institutions, and other potential sources of female and minority applicants, for referrals.
- ✓ ■ Do not use sex- or age-based language in your advertisements, i.e. "young woman," "cameraman," or "Girl Friday."
- ✓ ■ Review your employment application forms, making sure they ask for only job-related information.
- ✓ ■ Review education and experience requirements, to make sure that you are not asking more than is necessary for the job.
- ✓ ■ Avoid general aptitude tests.
- NA ■ Do not give a physical exam until after a conditional employment offer has been made. Such an exam, if you choose to give it, must be administered to *all* applicants.
- NA ■ Keep results of medical examinations *confidential*.
- ✓ ■ Review employment criteria to ensure that you are not screening out qualified individuals.
- ✓ ■ Educate interviewers as to permissible and impermissible inquiries and conduct.
 - Interview all applicants who appear to be qualified. If you decide that an applicant has insufficient qualifications to be interviewed, document and inform the applicant, in writing, of your reasons.
 - Document the objective, job-related reasons for rejecting each applicant that is not hired (with specific references to the job description, where appropriate).
 - Document the objective, job-related reasons for selecting the successful applicant (with specific references to the job description, where appropriate).
 - Inform each rejected applicant, in writing, why he or she was not selected for the position.
- ✓ ■ Inform referral sources whether the applicant(s) referred were hired or rejected.
- ✓ ■ Retain all applications, notices of interviews, correspondence with applicants and referral sources, notices, and advertisements.
- ✓ ■ Monitor your applicant flow, to ensure that you are attracting sufficient numbers of female and minority applicants.
- ✓ ■ Clearly set forth an employee's salary and other terms and conditions of employment at the outset to avoid future misunderstanding.

 DEFENSIVE MEASURES

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- If a written agreement of employment is used, make sure that it spells out management rights.
- ✓ ■ Don't make any verbal or written representations that may be later construed as binding contractual commitments. Don't make promises you can't keep.

Job Assignments and Transfers

- ✓ ■ Have objective, non-discriminatory reasons for all job assignments and transfers.
- Document your reasons for selecting one employee over another for reassignment or transfer.
- ✓ ■ Never make job assignments or transfers on the basis of stereotypes or your perception of the preference of your audience or customers.
- ✓ ■ Never consider race, sex, national origin, age, or any other protected characteristic in making job assignments and transfers.

Evaluations

- ✓ ■ Establish a formal evaluation procedure, whereby employment evaluations are performed on a regular periodic basis.
- Establish written standards for evaluations. These standards should be clear, objective and job-related.
- Make sure that the evaluation focuses on the significant aspects of job performance, without giving undue weight to minor elements of the job.
- If you use subjective criteria, ensure that they are closely related to the skills necessary for successful on-the-job performance.
- Require that evaluations be in writing and relate to the written standards.
- Inform employees of their evaluations, and allow them to comment in person and in writing on the evaluation form. The employee also should be asked to sign the evaluation form.
- Establish a review process, whereby an employee can discuss his or her evaluation with a third party at the station and can challenge any part he or she believes to be incorrect.
- NA ■ If you utilize outside consultants in evaluating on-air talent, monitor their activities carefully, and assess their suggestions critically. Ensure that no improper inquiries or unlawful bias is involved in their procedures.

Promotions

- Have written standards and guidelines for making promotional decisions. The standards should be clear, objective, and as detailed as possible. All employees should be aware of the standards being utilized.
- Evaluations for promotions should be in writing, and should indicate how

and why the candidate for promotion does or does not meet the written standards. Be specific.

- Both the standards and the evaluation of particular employees should reflect only the important aspects of job performance.
- If subjective factors are utilized in evaluating a candidate for promotion, the subjective factors should be only a part of the promotional decision, and not the full basis for it.
- Ensure that promotional decisions are reviewed by at least two managers or supervisors, to safeguard against any inference of discriminatory bias.

Dress and Appearance Codes

- Make sure your dress and appearance code is related to a clearly-articulated station image.
- Limit the code's applicability to those employees with on-air exposure, or who otherwise may affect the station's image with the public.
- Apply equivalent rules to males and females.
- Make exceptions, where appropriate, to avoid rules having an adverse impact on protected group members.
- Draft your dress and appearance code so as to reasonably accommodate your employees' religious beliefs and practices.

Discipline and Discharge

- Establish written rules of conduct for all employees, and follow the rules faithfully and consistently.
- Put all disciplinary actions in writing, and state your reasons for the action taken. You should ask disciplined employees to acknowledge the disciplinary action with their signature, or send a copy of the form to their home address.
- Establish a system of progressive discipline.
- Avoid suspicious timing.
- Consider a policy allowing employees the option of resigning instead of being fired. This creates fewer hard feelings, the employee is less likely to feel vindictive, and it gives him or her a better chance to find another job, which limits your potential liability for "back pay."
- Establish a policy that it *always* takes more than one person to fire an employee. This eliminates "impulse" discharges and gives another manager or supervisor the opportunity to inquire about what happened.
- Give every discharged employee the *correct* reasons for his or her discharge, in writing.

- ✓ ■ Take no action which might prevent a discharged employee from obtaining new employment.
 - Instruct anyone involved in a termination not to discuss the employee or the discharge.
- ✓ ■ Treat a discharged employee with humanity, and never be angry or punitive in the exit interview.
- ✓ ■ Exercise caution in providing references for former employees, as a recommendation may be used against you.
- ✓ ■ Do not treat an unemployment compensation hearing lightly if you decide to contest a claim, since a determination of an unemployment compensation agency may be significant in a subsequent discrimination suit filed against you by the discharged employee.
- ✓ ■ Respond to unemployment claims with the same reasons you relied on when discharging the employee.

EEOC Proceedings

- ✓ ■ If a complaint is filed with the EEOC, conduct an immediate and thorough investigation.
- ✓ ■ Never settle a charge without first consulting with a qualified attorney or other EEO professional.
- ✓ ■ Gather and preserve all records relating to the charge.
- ✓ ■ Never retaliate against an employee who has filed a complaint of discrimination, or treat the employee any differently from other employees.
- ✓ ■ Cooperate with the EEOC, but be careful not to allow the agency to take advantage of you.
- ✓ ■ If and when you submit information to the EEOC, remember that the information also will be made available to the FCC.

Final Advice

DON'T FORGET: This handbook is not a substitute for legal advice. In addition, this handbook does not discuss the multitude of state and local laws that might govern your operations. For advice on a specific EEO question or problem, and for information as to what your state requires, you should always consult with a qualified attorney or other EEO professional.