Federal Communications Commission
Washington, D.C. 20554

APR - 4 2011

[arch 29, 2011

General Manger/ KZSD TV ID#61062 Martin SD
South Dakota Board of Directors for Educational Telec
Box 5000
Vermillion, South Dakota 557069

Dear Licensee:

1. In accordance with 47 C.F.R. § 73.2080(f)(4) of the Commission's rules, the station employment unit (the "Unit") that includes your above-referenced station (the "Station") has been randomly selected for an audit of its Equal Employment Opportunity ("EEO") program. A copy of Section 73.2080 of the Commission's rules is enclosed for your reference.

2. If the Unit is not required under our rules to have an EEO recruitment program due to the nature of its full-time workforce (having fewer than five full-time employees, defined as employees regularly assigned to work 30 hours a week or more), you must still respond to this audit letter. However, in your response, you are required only to provide a list of the Unit's full-time employees, each noted by job title, the number of hours each is regularly assigned to work per week, and a response to Question 3(e) below. Also, in formulating your response, please see Questions 4(a)-(d) below regarding brokers and brokered stations for instructions for situations in which the applicable employment unit has fewer than five full-time employees.

3. **Audit Data Requested.** If the Unit employs five or more full-time employees (and all units, for Question 3(e)), provide the following information in your response to this letter, including an explanation regarding any requested information that you are unable to provide:

(a) Copies of the Unit's two most recent EEO public file reports, described in Section 73.2080(c)(6). For any stations in the Unit that have websites, provide each web address. If the Unit's most recent EEO public file report is not included on or linked to on each of these websites, indicate each station involved and provide an explanation of why the report is not so posted or linked, as required by Section 73.2080(c)(6). In accordance with Section 73.2080(c)(5)(vi), provide the date of each full-time hire listed in each report provided.

(b) For each Unit full-time position filled during the period covered by the above EEO public file reports, or since your acquisition of the Station, if after that period, dated copies of all advertisements, bulletins, letters, faxes, e-mails, or other communications announcing the position, as described in Section 73.2080(c)(5)(iii). Include copies of all job announcements sent to any organization (identified separately from other sources) that has notified the Unit that it wants to be notified of Unit job openings, as described in Section 73.2080(c)(1)(ii).

(c) In accordance with Section 73.2080(c)(5)(v), the total number of interviewees for each vacancy and the referral source for each interviewee for all full-time Unit vacancies filled during the period covered by the above-noted EEO public file reports.

(d) Documentation of Unit recruitment initiatives described in Section 73.2080(c)(2) during the periods covered by the above-noted EEO public file reports, such as participation at job fairs, mentoring programs, and training for staff. Specify the Unit personnel involved in each such recruitment initiative. Also, provide the total number of full-time employees of the Unit and state whether the population of the

market in which any station included in the Unit operates is 250,000 or more. Based upon these two factors, determine and state whether the Unit is required to perform two or four initiatives within a two-year period, pursuant to Sections 73.2080(c)(2) and (e)(3).

(e) Disclose any pending or resolved complaints involving the Station filed during the Station's current license term before any body having competent jurisdiction under federal, state, territorial or local law, alleging unlawful discrimination in the employment practices of the Unit on the basis of race, color, religion, national origin, or sex. For each such complaint, provide: (1) a brief description of the allegations and issues involved; (2) the names of the complainant and other persons involved; (3) the date the complaint was filed; (4) the court or agency before which it is pending or by which it was resolved; (5) the file or case number; and (6) the disposition and date thereof or current status. Note that all complaints must be reported, regardless of their status or disposition.

(f) In accordance with Section 73.2080(b), from the first day of the Station's current license term (or the date the licensee became the owner, if after that date) until the date of this letter, describe the responsibilities of each level of Unit management responsible for implementing Unit EEO policies and describe how the Unit has informed employees and job applicants of its EEO policies and program.

(g) In accordance with Section 73.2080(c)(3), from the first day of the Station's current license term (or the date the licensee became the owner, if after that date) until the date of this letter, describe the Unit's efforts to analyze its EEO recruitment program to ensure that it is effective and to address any problems found as a result of such analysis.

(h) In accordance with Section 73.2080(c)(4), from the first day of the Station's current license term (or the date the licensee became the owner, if after that date) until the date of this letter, describe the Unit's efforts to analyze periodically its measures taken to examine pay, benefits, seniority practices, promotions, and selection techniques and tests to ensure that they provide equal opportunity and do not have a discriminatory effect. If the Unit has one or more union agreements, describe how the Unit cooperates with each union to ensure EEO policies are followed for the Unit's union-member employees and job applicants.

(i) If your entity is a religious broadcaster and any of its full-time employees are subject to a religious qualification as described in Section 73.2080(a) of the rules, so indicate in your response to this letter and provide data as applicable to the Unit's EEO program. For example, for full-time hires subject to a religious qualification, only a record of the hire listed by job title and date filled, the recruitment sources used for the opening, and the source of the hiree must be provided. No other records are required for those hires. If five or more full-time positions are not subject to a religious qualification, the licensee must maintain and provide all records for such hires and complete the initiatives required under Section 73.2080(c)(2). Otherwise, a religious broadcaster is not required to perform these initiatives.

4. **Time Brokerage.**

(a) **Licensee of brokered station(s).** If the Unit employs fewer than five full-time employees and any station included in it is subject to a time brokerage agreement, in addition to responding to this letter and providing us a list of the Unit's full-time employees listed by job title (and the number of hours each employee is assigned to work) and a response to Question 3(e) above, you must immediately forward a copy of this letter to the broker under each such agreement, which must respond to Question 4(b) below. If the Unit employs five or more full-time employees, the licensee must respond fully to paragraph 3 above, and also forward the letter to the broker so the broker may respond to Question 4(b) below.

(b) **Broker receiving audit letter from brokered station licensee.** If you are the broker of a station, and the station you are brokering receives an audit letter, the licensee of the brokered station must forward the audit letter to you. You should respond to the audit letter concerning EEO information relating

only to your own full-time employees at the brokered station. *See* Section 73.2080(f)(3).

(c) **Broker receiving audit letter directly from Commission.** If you are a broker, but the target station in this audit letter is a station licensed to you, you must submit information requested herein for the EEO program at your station (or employment unit). If you maintain EEO data for a station you are brokering with that for your own station that is the target of this audit letter, and lack the ability to separate the information, you must include in your response the information requested herein pertaining to **your** full-time employees at the station(s) you broker. *See* Section 73.2080(f)(3).

(d) **Broker described under 4(b) or 4(c) above.** If your full-time employees at the station you are brokering, combined with your full-time employees at your owned station(s), total fewer than five, however, you need only respond to this letter by the deadline described below by submitting a list of your Unit's full-time employees (listed by job title and number of hours regularly assigned to work per week) and the same type of list for the full-time employees you employ at the brokered station(s), and a response to Question 3(e) above.

5. **Procedures.** Direct your response to EEO Staff, Policy Division, Media Bureau, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554. The response must be received by the Commission by May 9, 2011. You need only submit your original response; no copies are needed. The accuracy and completeness of the response must be certified by an officer, partner or other principal of the Station licensee or broker (as appropriate) or, in the case of a noncommercial educational station, by an officer, member or other principal of the licensee. (*See* Section 1.16.) The response may be in the form of a CD or other electronic medium, as long as the certification provided refers to the material submitted and is on paper with an original signature. To knowingly and willfully make any false statement or conceal any material fact in response to this audit is punishable by fine or imprisonment (*see* 18 U.S.C. § 1001; *see also* 47 C.F.R. § 1.17), revocation of any station license or construction permit (47 U.S.C. § 312(a)(1)), and/or forfeiture (47 U.S.C. § 503). Extensions of time must be requested in writing (or sent by e-mail to lewis.pulley@fcc.gov) and will be granted only upon a showing of extraordinary circumstances. Unless and until the EEO Staff grants such a request the original deadline remains in effect. Failure to respond to this audit letter by the deadline is punishable by sanctions in accordance with Section 73.2080(g).

6. In accordance with Sections 73.3526(e)(10) (for commercial stations) and 73.3527(e)(11) (for noncommercial educational stations), copies of which are enclosed, you must place a copy of this letter and your response in the public inspection file of each affected station. Consequently, your response should not include personal information about individuals, such as social security numbers, home addresses, or other personally identifiable information. We do not require that employment units retain such information in their records, or that such information be provided in response to this letter.

7. If our EEO random audits sent in 2009 or 2010 included the Station, or if the Station's most recent license renewal application was granted, by final order, within the past 18 months, you may not have to respond to this letter. If the Station falls within one of these categories, before responding, please tell us the dates of public file reports included in an audit response or the date of the Station's renewal, in an e-mail sent to lewis.pulley@fcc.gov. We will then advise you if a response is necessary. Should you have any questions, please contact the EEO Staff at (202) 418-1450. Thank you for your cooperation.

Sincerely,

Lewis C. Pulley
Assistant Chief, Policy Division
Media Bureau

Enclosures

CODE OF FEDERAL REGULATIONS
TITLE 47--TELECOMMUNICATION
CHAPTER I--FEDERAL COMMUNICATIONS COMMISSION
SUBCHAPTER C--BROADCAST RADIO SERVICES
PART 73--RADIO BROADCAST SERVICES
SUBPART H--RULES APPLICABLE TO ALL BROADCAST STATIONS

§ 73.2080 Equal employment opportunities (EEO).

(a) General EEO policy. Equal opportunity in employment shall be afforded by all licensees or permittees of commercially or noncommercially operated AM, FM, TV, Class A TV or international broadcast stations (as defined in this part) 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. Religious radio broadcasters may establish religious belief or affiliation as a job qualification for all station employees. However, they cannot discriminate on the basis of race, color, national origin or gender from among those who share their religious affiliation or belief. For purposes of this rule, a religious broadcaster is a licensee which is, or is closely affiliated with, a church, synagogue, or other religious entity, including a subsidiary of such an entity.

(b) General EEO program requirements. Each broadcast station shall establish, maintain, and carry out a positive continuing program of specific practices designed to ensure equal opportunity and nondiscrimination in every aspect of station employment policy and practice. Under the terms of its program, a station shall:

(1) Define the responsibility of each level of management to ensure vigorous enforcement of its policy of equal opportunity, and establish a procedure to review and control managerial and supervisory performance;

(2) Inform its employees and recognized employee organizations of the equal employment opportunity policy and program and enlist their cooperation;

(3) Communicate its equal employment opportunity policy and program and its 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;

(4) Conduct a continuing program to exclude all unlawful forms of prejudice or discrimination based upon race, color, religion, national origin, or sex from its personnel policies and practices and working conditions; and

(5) Conduct a continuing review of job structure and employment practices and adopt positive recruitment, job design, and other measures needed to ensure genuine equality of opportunity to participate fully in all organizational units, occupations, and levels of responsibility.

(c) Specific EEO program requirements. Under the terms of its program, a station employment unit must:

(1) Recruit for every full-time job vacancy in its operation. A job filled by an internal promotion is not considered a vacancy for which recruitment is necessary. Religious radio broadcasters who establish religious affiliation as a qualification for a job position are not required to comply with these recruitment requirements with respect to that job position or positions, but will be expected to make reasonable, good faith efforts to recruit applicants who are qualified based on their religious affiliation. Nothing in this section shall be interpreted to require a broadcaster to grant preferential treatment to any individual or group based on race, color, national origin, religion, or gender.

(i) A station employment unit shall use recruitment sources for each vacancy sufficient in its

reasonable, good faith judgment to widely disseminate information concerning the vacancy.

(ii) In addition to such recruitment sources, a station employment unit shall provide notification of each full-time vacancy to any organization that distributes information about employment opportunities to job seekers or refers job seekers to employers, upon request by such organization. To be entitled to notice of vacancies, the requesting organization must provide the station employment unit with its name, mailing address, e-mail address (if applicable), telephone number, and contact person, and identify the category or categories of vacancies of which it requests notice. (An organization may request notice of all vacancies).

(2) Engage in at least four (if the station employment unit has more than ten full-time employees and is not located in a smaller market) or two (if it has five to ten full-time employees and/or is located entirely in a smaller market) of the following initiatives during each two-year period beginning with the date stations in the station employment unit are required to file renewal applications, or the second, fourth or sixth anniversaries of that date.

(i) Participation in at least four job fairs by station personnel who have substantial responsibility in the making of hiring decisions;

(ii) Hosting of at least one job fair;

(iii) Co-sponsoring at least one job fair with organizations in the business and professional community whose membership includes substantial participation of women and minorities;

(iv) Participation in at least four events sponsored by organizations representing groups present in the community interested in broadcast employment issues, including conventions, career days, workshops, and similar activities;

(v) Establishment of an internship program designed to assist members of the community to acquire skills needed for broadcast employment;

(vi) Participation in job banks, Internet programs, and other programs designed to promote outreach generally (i.e., that are not primarily directed to providing notification of specific job vacancies);

(vii) Participation in scholarship programs designed to assist students interested in pursuing a career in broadcasting;

(viii) Establishment of training programs designed to enable station personnel to acquire skills that could qualify them for higher level positions;

(ix) Establishment of a mentoring program for station personnel;

(x) Participation in at least four events or programs sponsored by educational institutions relating to career opportunities in broadcasting;

(xi) Sponsorship of at least two events in the community designed to inform and educate members of the public as to employment opportunities in broadcasting;

(xii) Listing of each upper-level category opening in a job bank or newsletter of media trade groups whose membership includes substantial participation of women and minorities;

(xiii) Provision of assistance to unaffiliated 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;

(xiv) Provision of training to management level personnel as to methods of ensuring equal employment opportunity and preventing discrimination;

(xv) Provision of training to personnel of unaffiliated non-profit organizations interested in broadcast employment opportunities that would enable them to better refer job candidates for broadcast positions;

(xvi) Participation in other activities designed by the station employment unit reasonably calculated to further the goal of disseminating information as to employment opportunities in broadcasting to job candidates who might otherwise be unaware of such opportunities.

(3) Analyze its recruitment program on an ongoing basis to ensure that it is effective in achieving broad outreach to potential applicants, and address any problems found as a result of its analysis.

(4) Periodically analyze measures taken to:

(i) Disseminate the station's equal employment opportunity program to job applicants and employees;

(ii) Review seniority practices to ensure that such practices are nondiscriminatory;

(iii) Examine rates of pay and fringe benefits for employees having the same duties, and eliminate any inequities based upon race, national origin, color, religion, or sex discrimination;

(iv) Utilize media for recruitment purposes in a manner that will contain no indication, either explicit or implicit, of a preference for one race, national origin, color, religion or sex over another;

(v) Ensure that promotions to positions of greater responsibility are made in a nondiscriminatory manner;

(vi) Where union agreements exist, cooperate with the union or unions in the development of programs to ensure all persons of equal opportunity for employment, irrespective of race, national origin, color, religion, or sex, and include an effective nondiscrimination clause in new or renegotiated union agreements; and

(vii) Avoid the use of selection techniques or tests that have the effect of discriminating against any person based on race, national origin, color, religion, or sex.

(5) Retain records to document that it has satisfied the requirements of paragraphs (c)(1) and (2) of this section. Such records, which may be maintained in an electronic format, shall be retained until after grant of the renewal application for the term during which the vacancy was filled or the initiative occurred. Such records need not be submitted to the FCC unless specifically requested. The following records shall be maintained:

(i) Listings of all full-time job vacancies filled by the station employment unit, identified by job title;

(ii) For each such vacancy, the recruitment sources utilized to fill the vacancy (including, if applicable, organizations entitled to notification pursuant to paragraph (c)(1)(ii) of this section, which should be separately identified), identified by name, address, contact person and telephone number;

(iii) Dated copies of all advertisements, bulletins, letters, faxes, e-mails, or other communications announcing vacancies;

(iv) Documentation necessary to demonstrate performance of the initiatives required by paragraph (c)(2) of this section, including sufficient information to fully disclose the nature of the initiative and the scope of the station's participation, including the station personnel involved;

(v) The total number of interviewees for each vacancy and the referral source for each interviewee; and

(vi) The date each vacancy was filled and the recruitment source that referred the hiree.

(6) Annually, on the anniversary of the date a station is due to file its renewal application, the station shall place in its public file, maintained pursuant to § 73.3526 or § 73.3527, and on its web site, if it has one, an EEO public file report containing the following information (although if any broadcast licensee acquires a station pursuant to FCC Form 314 or FCC Form 315 during the twelve months covered by the EEO public file report, its EEO public file report shall cover the period starting with the date it acquired the station):

(i) A list of all full-time vacancies filled by the station's employment unit during the preceding year, identified by job title;

(ii) For each such vacancy, the recruitment source(s) utilized to fill the vacancy (including, if applicable, organizations entitled to notification pursuant to paragraph (c)(1)(ii) of this section, which should be separately identified), identified by name, address, contact person and telephone number;

(iii) The recruitment source that referred the hiree for each full-time vacancy during the preceding year;

(iv) Data reflecting the total number of persons interviewed for full-time vacancies during the preceding year and the total number of interviewees referred by each recruitment source utilized in

connection with such vacancies; and

(v) A list and brief description of initiatives undertaken pursuant to paragraph (c)(2) of this section during the preceding year.

(d) Small Station Exemption. The provisions of paragraphs (b) and (c) of this section shall not apply to station employment units that have fewer than five full-time employees.

(e) Definitions. For the purposes of this rule:

(1) A full-time employee is a permanent employee whose regular work schedule is 30 hours per week or more.

(2) A station employment unit is a station or a group of commonly owned stations in the same market that share at least one employee.

(3) A smaller market includes metropolitan areas as defined by the Office of Management and Budget with a population of fewer than 250,000 persons and areas outside of all metropolitan areas as defined by the Office of Management and Budget.

(f) Enforcement. The following provisions apply to employment activity concerning full-time positions at each broadcast station employment unit (defined in this part) employing five or more persons in full-time positions, except where noted.

(1) All broadcast stations, including those that are part of an employment unit with fewer than five full-time employees, shall file a Broadcast Equal Employment Opportunity Program Report (Form 396) with their renewal application. Form 396 is filed on the date the station is due to file its application for renewal of license. If a broadcast licensee acquires a station pursuant to FCC Form 314 or FCC Form 315 during the period that is to form the basis for the Form 396, information provided on its Form 396 should cover the licensee's EEO recruitment activity during the period starting with the date it acquired the station. Stations are required to maintain a copy of their Form 396 in the station's public file in accordance with the provisions of §§ 73.3526 and 73.3527.

(2) The Commission will conduct a mid-term review of the employment practices of each broadcast television station and each radio station that is part of an employment unit of more than ten full-time employees four years following the station's most recent license expiration date as specified in § 73.1020. Each such licensee is required to file with the Commission the Broadcast Mid-Term Report (FCC Form 397) four months prior to that date. If a broadcast licensee acquires a station pursuant to FCC Form 314 or FCC Form 315 during the period that is to form the basis for the Form 397, its Report should cover the licensee's EEO recruitment activity during the period starting with the date it acquired the station.

(3) If a station is subject to a time brokerage agreement, the licensee shall file Forms 396, Forms 397, and EEO public file reports concerning only its own recruitment activity. If a licensee is a broker of another station or stations, the licensee-broker shall include its recruitment activity for the brokered station(s) in determining the bases of Forms 396, Forms 397 and the EEO public file reports for its own station. If a licensee-broker owns more than one station, it shall include its recruitment activity for the brokered station in the Forms 396, Forms 397, and EEO public file reports filed for its own station that is most closely affiliated with, and in the same market as, the brokered station. If a licensee-broker does not own a station in the same market as the brokered station, then it shall include its recruitment activity for the brokered station in the Forms 396, Forms 397, and EEO public file reports filed for its own station that is geographically closest to the brokered station.

(4) Broadcast stations subject to this section shall maintain records of their recruitment activity necessary to demonstrate that they are in compliance with the EEO rule. Stations shall ensure that they maintain records sufficient to verify the accuracy of information provided in Forms 396, Forms 397, and EEO public file reports. To determine compliance with the EEO rule, the Commission may conduct inquiries of licensees at random or if it has evidence of a possible violation of the EEO rule. In addition, the Commission will conduct random audits. Specifically, each year approximately five percent of all licensees in the television and radio services will be randomly selected for audit, ensuring that, even though the number of radio licensees is significantly larger than television licensees, both services are represented in the audit process. Upon request, stations shall make records available to the Commission for its review.

47 C.F.R. § 73.2080

(5) The public may file complaints throughout the license term based on a station's Form 397 or the contents of a station's public file. Provisions concerning filing, withdrawing, or non-filing of informal objections or petitions to deny license renewal, assignment, or transfer applications are delineated in §§ 73.3584 and 73.3587-3589 of the Commission's rules.

(g) Sanctions and Remedies. The Commission may issue appropriate sanctions and remedies for any violation of this rule.

47 C.F.R. § 73.3526

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SUBPART H--RULES APPLICABLE TO ALL BROADCAST STATIONS

§ 73.3526 Local public inspection file of commercial stations.

(e)(10) Material relating to FCC investigation or complaint. Material having a substantial bearing on a matter which is the subject of an FCC investigation or complaint to the FCC of which the applicant, permittee, or licensee has been advised. This material shall be retained until the applicant, permittee, or licensee is notified in writing that the material may be discarded.

47 C.F.R. § 73.3527

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§ 73.3527 Local public inspection file o noncommercial educational stations

(e)(11) *Material relating to FCC investigation or complaint.* Material having a substantial bearing on a matter which is the subject of an FCC investigation or complaint to the FCC of which the applicant, permittee, or licensee has been advised. This material shall be retained until the applicant, permittee, or licensee is notified in writing that the material may be discarded.