

# **FILLING OUT THE NON-ENGINEERING PARTS OF FCC FORM 318 OR, HOW TO APPLY FOR A LOW POWER RADIO STATION**

## *Directions for the First-Time Applicant*

April 16, 2000

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*Prepared, in part, through the financial support of the Ford Foundation*

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## INTRODUCTION

Congratulations! You are interested in becoming part of the broadcasting family! As a low power radio broadcaster, you may become the central point in your community for information, and new voice in support of civil rights, or a alternative outlet for music -- traditional or innovative, or anything else you can imagine. This is an powerful and exciting tool!

This is also a serious undertaking. Applying for a low power radio station at the Federal Communications Commission (called the FCC for short) has legal implications. You are swearing to the FCC you want to transmit radio broadcasts according to the terms of your application. You are possibly taking away the opportunity for someone else to broadcast if you get a license. Do not submit an application unless you are serious and you believe have sufficient resources to follow through.

This book was written by the Media Access Project, with generous assistance from other members of the communications bar, on behalf of the United Church of Christ, Office of Communication, Inc., Microradio Implementation Project. Additional help and advice about applying and operating a low power radio station can be obtained directly through the MIP.

### **PURPOSE OF, AND LIMITATIONS TO, THIS BOOKLET'S ADVICE**

These instructions are intended to help the typical local community-based non-profit organization complete an application for a low power radio license. They do not cover the special needs of organizations with complicated organizational structures, such as partnerships, for-profit or other stock organizations. If your organization has these types of characteristics, you will likely need a competent communications attorney to assist you.

These instructions cannot address all question that might arise. These instructions highlight instances where you may need additional guidance beyond that provided here. The UCC Microradio Implementation Project will collect questions and will produce answers to them as answers to Frequently Asked Questions (called FAQs). In addition, you might be able to find volunteer legal assistance on your own. You should be careful, however, as FCC-related law is very specific. If at all possible, you should seek assistance from an experienced communications attorney. The UCC MIP may be able to refer you to communications attorneys.

These instructions also do not cover Section V, the engineering portion of Form 318. This information will soon be available separately from the MIP. The toll-free phone number is (877) 468-8884.

Finally, these instructions are to *assist you with* the FCC's official instructions. The FCC's instructions are an important part of the FCC's form and you should read them carefully. If these instructions differ from the FCC's instructions, follow the FCC's instructions.

## BACKGROUND INFORMATION

This guidance should be read in conjunction with Media Access Project's "Summary of Eligibility Requirements and Application Procedure for New FCC Low Power Radio Licenses." That four page information sheet contains much of the information you will need to understand this form and the FCC's requirements.

### General Process

There are three major steps to start a low power radio station:

- 1. Apply for a Construction Permit -- The first step is the most important.** You must first complete and submit FCC Form 318, which is an application for a "construction permit." A construction permit is permission from the FCC to build a new station. It reserves a frequency and a geographic location for you.
- 2. Build the Station --** Once you are given the construction permit, you have 18 months, at most, to build the station. You can take less than 18 months, but not more!
- 3. Receive a Broadcast License --** After this process is complete, there is a relatively simple process to obtain a license by notifying the FCC that you have finished erecting your equipment. Once you receive the license, you can begin broadcasting!

### Getting Form 318 -- Application for a Low Power Radio Construction Permit

You can get the form in several ways. You may download and print out a blank version of the form from the Internet. The address is: <http://www.fcc.gov/mmb/asd/lpfm>. This is a big file, if you have trouble, you might try going to your local library or other location where they may have faster computers or better printers.

You may also order a form over the telephone automatically by calling the FCC at 1-800-FCC-FORM (1-800-322-3676) and ordering Form 318. They will mail you the form. If you have trouble, you can call the FCC's general toll-free number at 1-888-CALL-FCC (1-800-225-5322).

### Filing the Form at the FCC

FCC Form 318 may be filed *only* during a filing "window." This is a five day period of time. **YOU MAY NOT FILE THE FORM EARLY OR LATE. YOU MUST FILE INSIDE YOUR PARTICULAR WINDOW ACCORDING TO THE SCHEDULE OR YOUR APPLICATION WILL BE REJECTED.**

The schedule is listed below.

To file on paper, use an express mail service so that your form will *arrive inside* the five day window. Submit the **original plus two copies (three total)** of the completed FCC form and all exhibits. You must submit the original that has an original signature. Keep another copy for your records. You should also submit an extra copy of your application and a stamped self-addressed envelope (regular U.S. mail is OK). Mark the extra copy "stamp and return." The FCC will mark the date and time it received your form and mail it back to you as proof of when your application was received. Mail the form and copies to:

Secretary  
Federal Communications Commission  
Washington, DC 20554

At some point in the future, but not right away, you may be able to file directly on the Internet. The FCC is developing an electronic application form that would be available on the FCC's web site. Using an electronic application is different from getting a blank form on the Internet and completing it manually. When the electronic form is ready, you will be able to submit all your information over the Internet.

This form will not be mandatory, but it will be preferable for many because it will be designed to identify mistakes in the application before you submit it. Keep checking the FCC's web site for this possibility.

### **Application Schedule**

The FCC has divided the country into five groups. Organizations will apply for low power radio according to their locations. **The specific dates when each group will apply are announced at least a month before the application forms are due.** The schedule of when applications are **due** is as follows, look for an announcement at least one month before:

May 2000	Alaska, California, District of Columbia, Georgia, Indiana, Louisiana, Maine, Commonwealth of the Northern Mariana Islands, Maryland, Oklahoma, Rhode Island, Utah
August 2000	Connecticut, Illinois, Kansas, Michigan, Minnesota, Mississippi, Nevada, Puerto Rico, Virginia, Wyoming
November 2000	American Samoa, Colorado, Delaware, Hawaii, Idaho, Missouri, New York, Ohio, South Carolina, South Dakota, Wisconsin
February 2001	Arizona, Florida, Iowa, New Jersey, North Dakota, Oregon, Tennessee, Texas, U.S. Virgin Islands, Vermont, West Virginia
May 2001	Alabama, Arkansas, Guam, Kentucky, Massachusetts, Montana, Nebraska,

### **Steps in the Application Process**

Although at this time it is impossible to say how long most steps in the process will take, this will give you an idea of the order of the necessary steps.

#### **START**

- Potential Low Power Radio Applicants Educate Themselves, Get Forms
- FCC Announces Exact Filing Window Dates According to Application Schedule
- Applicants File Forms
- FCC Announces Applications that Conflict with Each Other
- Applicants Submit Point Pooling Agreements to the FCC (30 day time limit)
- FCC Announces Winners of Point System Allocations
- FCC Announces Tentative Recipients of Construction Permits
- FCC Accepts Petitions to Deny from the Public (30 day time limit)
- FCC Awards Construction Permits
- Permittees Construct their Stations and Notify FCC (18 month time limit)
- FCC Awards License and Low Power Radio Stations Begin Broadcasting!

#### **FINISH!**

### **General Structure of FCC Form 318**

Except for filling in your name and address, most of FCC Form 318 is a series of yes/no questions. **In general, you are eligible for a license if you are able to answer these questions "yes."**

**However, the FCC is more flexible than you might imagine.** Although for some questions, you must be able to answer yes to be eligible for a license, for other questions you may answer "no" and provide additional information to the FCC to explain why you are be eligible.

This additional information is supplied to the FCC in "exhibits," which are just pieces of paper or word processing files with explanations or copies of official documents.

- Each exhibit must be labeled with a letter or number (for example, Exhibit 1), you insert the exhibit number or letter in the little box next to the question on the form so the person reading the form knows which exhibit to read.
- The exhibits should be typed, have one inch margins, and be labeled with the applicant's name.

**IT IMPORTANT TO BE HONEST WITH THE FCC. DO NOT ANSWER "YES" IF**

**THAT IS NOT THE TRUTHFUL ANSWER.** The biggest possible mistake you can make at the FCC is to lie to the FCC, or to even be vague. Do not hide important facts. If you are ever unsure, it is always safer to answer "no" and to explain in an exhibit. The FCC will take away the license of or fine anyone they discover has lied in their application.

**YOU MUST ALSO UPDATE YOUR APPLICATION.** If anything changes after you file your application, you must "amend" your application. Not updating your application is the same as lying. It is a very simple process to update your application. See the example at the end of these instructions. (Although the sample is specifically for pooling points, it will give an idea of how to do other amendments.)

### **Documents and Information To Gather Before You Begin**

Before you begin filling out the form, you should do two things:

1. Make a photocopy or get an extra copy of the form and fill out a scrap copy. Once you get all the information correctly, fill it out carefully and clearly on the form you will submit to the FCC.
  2. Collect the information listed below:
- **Collect Copies of Organizational Documents** -- When most organizations are created, the founders write something down on paper. Usually these documents are filed with the state government or with the federal government -- particularly if you are a non-profit or tax-exempt organization. These are often called "Articles of Incorporation," "Articles of Association," "Organizational Charter" or possibly "Bylaws" (most organizations should have Bylaws in addition to another, originating document). These documents should usually describe the organizations official purpose and who controls the organization, for example, they will describe the officers duties and how they are selected. Find these documents, you will need them to answer several questions.
  - **Collect Information about your Board of Directors and Individuals who Control the Organization** -- You will need the names, addresses, and citizenship of Board of Directors, the Executive Director and other individuals who control the applicant organization. You will likely need to know how close the Board of Directors addresses are to the transmitter site. You must also determine whether any of these people own or are involved in the management of another broadcaster, such as a radio or TV station, or whether they own or are involved in the management of a cable television operator or a large daily newspaper. In addition, you must determine whether any member of these individuals' families (parents, children, or siblings) owns or controls any of these types of companies *in the same area* as the low power radio station. Serving on the board of a broadcaster or other media outlet, including a noncommercial broadcast station, will count for this purpose.

It may seem very intrusive for the FCC to ask questions about people's families, but in the past, FCC applicants have tried to get around FCC rules by pretending, for example, that their young children own or run a television station. The FCC asks these questions to improve diversity make sure no one is violating the rules.

- **Identify the proposed transmitter location.** The FCC will put software on its web site to assist applicants with this task. This software should be available by the middle of April 2000, and no later than 30 days before the first application forms are due. You may also contact a broadcast engineer for assistance. Be careful! Do not be overcharged for this assistance if you choose not to rely on the FCC web site alone. Further information about the engineering behind a low power radio application will be available from the MIP.
- **Look at a map.** You are *not* eligible for the first round of low power licenses *unless* your headquarters, campus or the residences of 75% of your Board of Directors are within 10 miles of the proposed transmitter location. As instructed under Section III, Question 1, mark the proposed transmitter location and board's residences or headquarters or campus on a map of your area. Measure a piece of string, thread, or a piece of paper that represents 10 miles according to the map's scale. Draw a circle on the map using the string, thread, or paper that is 10 miles away from the transmitter location. Determine whether the residences, headquarters, or campus are inside the circle.
- **Try to find out what other organizations in your area might also apply for a low power radio station.** You will want to start talking with them now about cooperating with them later if there are not enough frequencies for everyone who wants one in your area.

## **SPECIFIC QUESTION-BY-QUESTION GUIDANCE**

### **SECTION I - GENERAL INFORMATION**

#### **Question 1**

Name, mailing address, city, state and zip code are self-explanatory. Only organizations, and not individuals, can apply for a low power license. For first applications, put "NEW" in the call sign blank and do not fill in a facility ID number.

#### **Question 2**

If someone, such as a lawyer, is completing the form for you and you would like the FCC to contact that person if the FCC has a question, include that person's name and contact information.

#### **Question 3 - Application Purpose**

Check the "new station" box. (Later in the process, if you are cooperating with another applicant to share points, you will check "amendment to pending application.") Check "N/A" to letter a, and put the city and state of the proposed location of your transmitter in letter b.

### **SECTION II - LEGAL**

#### **Question 1 - Certification**

This question must be answered yes. Do not lie or take chances. Make sure you can truthfully swear "yes" as an answer. Applicants who lie to the FCC risk losing their licenses. Lying to the government, even if you are not caught, is against the law.

#### **Question 2 - Eligibility**

You must be able to check "yes" to one of the three boxes a, b, or c to be eligible for a license. If you are a school, either a private school, a public school, or a college or university, check box a. If you are another type of non-profit with an educational purpose (such as just about any other community organization including religious organizations), check box b. If you are a governmental public safety entity, check c.

If you are a school or another non-profit, and thus checked box a or b, you **MUST** attach an exhibit to show how your educational mission is linked to the radio station's programming or operation. The exhibit should include:

- (1) a description of the organization's mission
- (2) examples of what type of programming you plan to provide;
- (3) the date your organization was officially formed and the state where it was

formed.

**The organization's mission must be educational.** The educational purpose can be very broad, such as "to educate the community about the Methodist ministry" or "to educate the community about the needs of and issues concerning Mexican-Americans." The purpose should not solely be operating a low power radio station. The purpose does not have to be a traditional educational program like that of a school or university, but it should have the word "educate" in it. If you do not have the word "educate" explain in an exhibit how this mission is educational, but you should also seek further advice from the MIP or an attorney about what qualifies as educational.

**Describe your proposed programming.** The programming you describe does not have to be traditional educational programming, as long as it furthers the station's mission. You are not bound permanently by the programming suggestions and other activities that you submit as examples. But you should try very hard to predict what you will actually do. This effort should also help you to organize your group and energize your volunteers. Try to be as specific as possible, but you probably don't need more than 1-2 pages.

**Include the date and state where your organization was founded.** This date should be found in a document that was prepared at the time the organization was founded. Although it is important to use the earliest date that the organization was in existence because older organizations might be eligible for preferences, you should have some proof of when the organization was founded.

**If you are a local chapter of a national organization, include the *local* mission of the organization.** The local mission should be different from the national mission, even if the only difference is the focus on the local area rather than on national concerns. For example, a local boy scout troop's mission might be "to educate and assist boys living *in Pleasantville, IL* about outdoor skills, career aspirations, and service to their community." If your local organization does not have a mission that is distinct from the national mission, see Question 3 below. Demonstrating you have a separate local mission is important, because each organization is limited to one low power station in the first two years of the program. If you do not have a separate local mission and meet the other criteria under Exception B (described under "Special Cases for Questions 3 and 5" below), the national organization will only be able to get one station for the whole national organization!

### **Question 3 - Parties to the Application**

You must list the so-called "Parties to the Application" in Question 3. This is a fancy way of saying everyone who has a right to control or influence the applicant's behavior.

Because Question 3 provides the basis for questions 5-9, you should look through questions 5-9 before answering Question 3. We address some of the issues affecting which individuals should be listed in Question 3 below under "Special Cases for Questions 3 and 5."

**To complete Question 3, you must identify the individuals who are able to decide what the organization will do.** For most non-profits, these people are members of the Board of Directors and Executive Director. Usually the Board votes to decide what action to take and then authorizes individuals to perform functions. The people who are listed in Section III are the ones who exercise final authority. In addition, you must include the Boards of Directors and Executive Director of any subsidiary of the applicant that is completely controlled by the applicant's Board. If you are part of a national organization, check "Special Cases for Question 3 and 5" below.

Question 3, and in particular, the instructions to Question 3 are extensive because they list the rules governing many complex organizations. **If you are the typical small non-profit you only need to read the information under the heading "Non-stock Corporations or Other Non-Stock Entities."** Thus, as it states in the instructions, you will simply put your Board of Directors' and Executive Director's names (as well as officer and directors of any subsidiaries) in Question 3(a) and proceed to Question 4.

If you are NOT a non-stock organization, you will probably need to consult an attorney, preferably a communications attorney, to complete Question 3. Advice for organizations that are not non-stock organizations are not included in these guidelines.

**How do I know whether I can follow the instructions under "Non-Stock Corporations or Other Non-Stock Entities"?** You are a corporation or association with a non-profit purpose controlled by a board that is self-propagating or elected by the members and is not controlled by anyone with a significant financial interest in the organization (small yearly dues do not count). Read your organizing documents to see what they say. Consult the person, if available, who prepared these documents. You are probably in good shape if you have received tax-exempt status from your state or the Federal government.

In the columns in Section II, Question 3, you must list:

- (1) each person's name, (called a "party") and address,
- (2) that person's citizenship,
- (3) their title or position (called "positional interest"),
- (4) the percent of the total number of votes the person has, and, (5) if applicable, the "percentage of total assets."

For item (4), divide the total number of votes on a board by the number of votes exercised by the person listed. For example, if your board has 5 members, each with one vote, then column (4) should read 1/5 or .20. If none of the individuals have a financial interest in the applicant organization, you may put "N/A" for "not applicable" in column (5). If you cannot put N/A, you should contact an attorney or UCC for advice.

If all the information does not fit into the columns, simply attach an additional piece of paper and continue the columns on the additional page. Label the page very clearly "Section III, Question 3.a. Parties to the Application continued" and include your organization's name.

**Non-U.S. citizens on the Board of Directors.** It is OK if some of your Board members are not U.S. citizens, but there are limits. Not more than 20% of your Board can be controlled by non-citizens. Use the numbers in column four ("percentage of votes") to determine whether a non-citizen or several non-citizens control more than 20 percent of the total votes. (Add up all the percentages controlled by non-citizens.)

### **Special Cases for Questions 3 and 5**

***Exception A, Directors Who Own or Control Other Media Outlets.*** The FCC's rules prohibit an applicant from listing anyone in Question 3 who is a broadcaster or owns or controls a company that is subject to FCC ownership rules -- such as someone who owns or manages a radio or TV station, a cable operator (not a cable access center), or a large daily newspaper (college newspapers and other internal newsletters do not meet this criterion).

However, there is an exception for large organizations where the person listed in Question 3 can be insulated or separated from the operation of the low power radio station. This exception applies only if:

- (1) the organization is large enough that it has functions other than operating a low power radio station;
- (2) the person listed in Question 3 has responsibilities that are not related to the low power radio station; and
- (3) the person agrees, in a written formal statement, that he or she will not consider any decisions with respect to the low power radio station. (Making this statement is called "recusing" yourself.) For example, after recusing herself a Board member must not vote on anything governing the low power radio station and should leave the room when the Board discusses the low power radio station. This exception is pursuant to Section 73.858(a) of the FCC's rules.

If you need to use this exception, you will need to submit an exhibit showing you comply with this exception in Question 5(b). See the sample application.

***Exception B, Local chapters of national organizations.*** A local chapter of national organizations may be considered part of the national organization unless the local chapter meets two conditions. The two conditions are:

- (1) the local chapter is incorporated in its local area separately from the national organization; and
- (2) the local chapter has a distinct local presence and mission.

**It is important to show you are a "distinct" local chapter** because each organization can only own one low power radio station during the first two years of the service. If you are part of a national organization and you cannot show you are a distinct local chapter, only one arm of the whole national organization will be able to get a license. In addition, if you are not a distinct local chapter, you must include the board members of the national organization in the answer to Question 3.

If you are a distinct local chapter, include this information in an exhibit for Question 5(b). (It might not seem completely logical to include this information in Question 5(b), but the FCC's directions tell you to include it there.)

#### **Question 4 - Community-Based Criteria**

Question 4 is self-explanatory. You must be able to check yes to **either** question 4(a) or 4(b) or 4(c) to be eligible for an LPFM license in the application windows during 2000-2001. See instructions under Section III, Question 1 if you need help deciding whether your campus, headquarters, or board lives within 10 miles of the proposed antenna.

#### **Question 5 - Ownership**

**Question 5(a).** Question 5(a) asks whether the applicant or anyone listed in Question 3 owns or controls a low power radio station. For the applications filed during 2000-2001, you must be able to answer no to this question. Do not forget to take into account the exceptions that apply to Question 3, and that are discussed above under "Special Cases for Questions 3 and 5." Also see the sample Exhibit B.

**Question 5(b).** To answer yes to question 5(b), neither the applicant organization nor anyone listed in Question 3 may own or influence or manage a radio or TV station, a cable operator (not a cable access center), or a large daily newspaper (college newspapers and other internal newsletters do not meet this criterion). If you are using an exception described in Question 3, answer no, and attach an exhibit. If you are uncertain, answer no, and explain why you think your organization does not control any other media. If you are uncertain, you should probably contact an attorney or UCC for further guidance.

If you are using Exception A, Directors who Own or Control Other Media Outlets, your exhibit for Question 5(b) must include:

- (1) a description of the organization that describes the functions that are separate from operating the low power radio station; and
- (2) a description of the director's responsibilities that shows his or her responsibilities include activities that are separate from operating the low power radio station; and
- (3) the written statement or resolution by the Board of Directors stating that Board

member is "recused" from any question concerning the low power radio station.

If you are using Exception B, Distinct Local Chapters of National Organizations, your exhibit for Question 5(b) must include:

- (1) a statement that the organization was incorporated in its local area separately from the national organization; and
- (2) the mission of the local organization that shows its connection to its local area.

**Question 5(c).** You can answer "yes" to this question, if, as the FCC asks in Worksheet #1a, if *no* member of the immediate family (meaning husband, wife, father, mother, sister, brother, son and/or daughter) of any person in Question 3 has any connection with another broadcast station, including another low power radio station, or a large, daily newspaper *in the same area as the low power station you are applying for*. Also include whether family members are *applying for* either a full power or low power broadcast license in the same area you are applying for.

Worksheet #1a explains how to determine whether a broadcast station or newspaper is in the same area. You may need help with these definitions. The person who has a connection to a broadcast station or newspaper is a good place to start. Low power radio stations are easier: they are in the same area if they are within 7 miles of each other. Use the map technique described in Section III, Question 1 to determine whether two low power radio stations are within 7 miles of each other.

If you cannot answer yes to these two questions, you may still be able to answer "yes" to Question 5(c), but you must complete Worksheet #1a to find out. If you can complete Worksheet #1a successfully, you may answer "yes" as directed by Worksheet #1a. You may want to seek assistance from an attorney or from UCC in this case. If you cannot complete Worksheet #1a successfully, you may still be eligible, but you must answer "no" to Question 5(c) and attach an exhibit. In this case, you will need the assistance of an attorney.

**Question 5(d).** If the applicant organization has no financial investors, you may answer "yes" to Question 5(d) and skip Worksheet #1b. If you do have financial investors, seek the advice of an attorney to complete Worksheet #1b.

## **Question 6 - Character Issues**

If neither the applicant organization nor anyone listed in Question 3 have applied to the FCC for a broadcast license in the past, you may answer "yes" to Question 6(a) and 6(b).

If someone has applied for a broadcast license, you should consult that person and/or that person's attorney to determine whether there were "character issues." You will likely need further assistance with Question 6. Seek advice from the MIP or from a communications attorney. Don't

forget, you must not be careless about answering these questions.

### **Question 7 - Adverse Findings**

If, in the last 10 years, no one listed in Question 3 has been found guilty in a criminal proceeding or liable in a civil proceeding concerning the areas listed below, you may answer "yes" to Question 7.

The areas are:

- a criminal felony
- unlawful mass media related antitrust or unfair competition activity
- fraudulent statements to any government entity
- unlawful racial, sex, or ethnic discrimination

If the answer is "no," you must attach an exhibit explaining the circumstances and resolution to the particular incident or situation. In this case, you should probably seek further assistance from the MIP or an attorney to determine whether you are eligible for a license.

### **Question 8 - Unlicensed Operation**

**If no one listed in Question 3 has ever broadcast without an FCC license under any circumstances, you may check "yes" to Question 8(a) and skip to Question 9.** Be careful, there are many myths that, under certain circumstances, it is OK to broadcast without a license. It is *almost never* OK to broadcast without a FCC license. It doesn't matter whether the unlicensed broadcaster was transmitting a very weak signal, was operating after the so-called *Dunnifer* decision, was engaging in civil disobedience, or was operating because the broadcaster didn't know any better. If any of those situations apply, you must answer no to Question 8(a) and answer Question 8(b). If you have questions, seek the advice of MIP or a communications attorney.

**If you answered "no" to Question 8(b), you must be able to answer "yes" to either part i or ii to Question 8(b).** Part i and ii are self-explanatory. The FCC did NOT legalize so-called "pirate" radio by creating low power radio. If you cannot answer either of these questions "yes," you are not eligible for a low power license.

### **Question 9 - Anti Drug Abuse Certification**

Question 9 is asking a very limited and specific question. **It is likely that even people who have been convicted of possession or use of illegal drugs will be able to answer "yes" to this question.**

Question 9 is asking about a special law, 21 U.S.C. § 862, that authorizes a judge to take away certain federal benefits because of a conviction for distribution or possession of illegal drugs.

Question 9, however, also might apply to individuals not listed in Question 3. If you are a membership association and you have questions about who Question 9 applies to, contact UCC or an attorney.

Answer "yes" if no one in Question 3 has been convicted of possessing or using illegal drugs.

In addition, answer "yes" if someone was convicted of possession or use of illegal drugs, but did not lose benefits under 21 U.S.C. § 862.

**This question is not asking whether the individuals in Question 3(a) currently or in the past have possessed or used illegal drugs. It is not asking whether you have been convicted of possessing or using illegal drugs.** It is asking whether a judge took away some of your federal benefits under this specific law.

### **SECTION III - POINT SYSTEM FACTORS**

**Your answers to Section III will determine how many points you get under the FCC's system.** If there are not enough stations for all applicants in a certain city, the FCC will give the station to the applicant with the most points. This system is covered in the separate document "Summary of Eligibility Requirements and Application Procedure for New FCC Low Power Radio Licenses."

#### **Question 1 - Established Community Presence**

Answer yes if you:

- (1) are more than two years old (and you can prove it) AND;
- (2) have been located within 10 miles of the proposed antenna location for the whole two years.

You have been "located" within 10 miles of the proposed antenna location if your headquarters or campus is located within 10 miles of the proposed antenna location, *or*, if 75 percent of your board resides within 10 miles of the antenna location. Determine whether it is in within 10 miles "as the crow flies." Do this by marking up a map of your area. Mark the proposed transmitter location and board's residences or headquarters or campus on the map. Measure a piece of string, thread, or a piece of paper that represents 10 miles according to the map's scale. Draw a circle on the map using the string, thread, or paper that is 10 miles away from the transmitter location. Determine whether the residences, headquarters, or campus are inside the circle.

**You must attach an exhibit to answer "yes" to Question 1.** This exhibit should include:

- (1) a copy of the organizing documents to show how old the organization is; and
- (2) a sworn statement by someone who can verify that the headquarters, campus, or 75 percent of the board's residences are within 10 miles of the antenna, *and have been for two years.*

### **Question 2 - Proposed Operating Hours**

If your station will be able to broadcast for 12 hours a day 7 days a week, check yes to Question 2. **You must not check yes unless you will be able to broadcast for 12 hours per day. You will risk losing your license if you get a point for answering yes to Question 2 and then do not keep your promise.**

If you are not able to broadcast for 12 hours per day, it is possible you will partner later with an organization that can do so. Talk with other organizations and work to maximize your points and also cooperate with others. It might be better for you to apply separately, and then cooperate later so you can accumulate points among several organizations. Figure it out so you maximize your points.

### **Question 3 - Local Program Origination**

Answer "yes" to Question 3 if you will create programming within 10 miles of the antenna for at least 8 hours per day. Programming meets this criteria, if, for example, a Deejay will play music and that person is located within 10 miles of the antenna, or if a reporter records a story using information and interviews located within 10 miles of the antenna. If you plan to use a program service that comes from a satellite source, the Internet, or some other external producer it cannot be counted as local programming. (In addition, if you plan to use material created by other people, you must get permission to use their work. You will need further information on copyright laws before you begin broadcasting.)

### **SECTION IV - CERTIFICATION**

Sign here to certify that you have answered truthfully and accurately. If anything changes after you file your initial application, you are required to update your application to the FCC. Updating the application will not affect the FCC awarding a station unless you show that you are eligible for fewer points under Section III or demonstrate you are ineligible for some other reason. If you do not update your application, it is the same as lying to the FCC and you risk losing your license.

Do not sign this application unless you are sure it is accurate. Lying to the FCC is against the law.

Don't forget to make two copies for the FCC and several copies for yourself before you mail it in!

## **What to Do if Your Application Conflicts with Another Application and You Want to Earn More Points by Cooperating with Another Applicant**

The FCC's process gives you an opportunity to increase the number of points you earn by cooperating with other organizations after you file your application. This guidance is preliminary because the FCC's instructions about submitting amendments to share points are not yet available. More information will be forthcoming as the FCC distributes further information.

After you complete your application, the FCC will announce the applicants that conflict with one another, called mutually exclusive applications, because there isn't enough room for everyone to get a station. The FCC will also announce the number of points each applicant has.

After the FCC makes this announcement, you have *30 days* to submit an amended application form to the FCC to cooperate with others, and thus increase the chances you will get a station. The FCC will put the announcement on its web site. You should receive a letter with complete instructions from the FCC, but you might not receive this letter right away. **SO KEEP WATCHING THE FCC'S WEB SITE AND KEEP IN TOUCH WITH OTHERS SO THAT YOU WILL KNOW WHEN THE LIST IS ANNOUNCED.** This short time-frame means you should start talking with anyone you might want to work with right away. (If each organization is separately qualified to apply for a station and is able to operate one, you should each submit your own application first so you can maximize your points).

Applicants can cooperate with each other in two ways. First, any number of tied applicants can pool their points if they agree to a time-sharing proposal that grants at least 10 hours per week to each applicant. Second, if *everyone* in a specific area agrees, almost any agreement (including one with fewer than 10 hour commitments) can be submitted to the FCC.

After you make an agreement, you must notify the FCC. You use Form 318 to do this. Complete Section I using the same information as before, *except*: in Question 3, check the box "amendment to pending application;" complete letter "a" with your file number if you have it; and submit an exhibit that states you are amending Section III of the application and describes the time-sharing agreement and the your new combined point totals.

### **Example**

Organization W files an application. Organization W receives 3 points because it has been a local organization under the FCC's definition for more than 2 years, promises to broadcast more than 12 hours a day, and promises to broadcast at least 8 hours of local programming per day.

Church X also files an application. Just like Organization W, it receives 3 points because it has been a local organization under the FCC's definition for more than 2 years, promises to broadcast more than 12 hours a day, and promises to broadcast at least 8 hours of local programming per day.

Community Group Y also files an application in the same area. It receives 2 points because it has been a local organization under the FCC's definition for more than 2 years and it promises to broadcast at least 8 hours of local programming per day.

Elementary School Z also files an application in the same area. It receives 1 point because it has been a local organization under the FCC's definition for more than 2 years.

Organization W, Church X, Community Group Y, and Elementary School Z all appear on the FCC's Mutually Exclusive List for their area. No other applicants appear on the list. Church X, Community Group Y, and Elementary School come to an agreement, but Organization W does not participate in the agreement.

The agreement states:

- Church X will broadcast for 12 hours every Sunday from 6 am until 6 pm.
- Community Group Y will broadcast every weekday from 6 am until 3 pm and on Saturday from 6 pm until 12 midnight.
- Elementary School Z will broadcast every day from 3 pm until 6 pm and on Saturday between 9 am and 6 pm.
- The cooperating groups promise to broadcast 12 hours per day and 8 hours of local programming per day.

The cooperating groups submit the agreement to the FCC using Form 318 within 30 days of the date of the FCC's Mutually Exclusive List.

Under this example, Church X, Community Group Y, and Local Activist Chapter Z, together, will receive 6 points. (Note each one broadcasts for at least 10 hours per week). They have more points than Organization W's 3 points, and they will receive the station.

In an alternate example, Organization W also participates in the agreement. It agrees to broadcast Saturdays between 6 pm and 12 midnight. Because everyone agreed, it is OK that Organization W only broadcasts for less than 10 hours per week.