

§ 73.853

time-sharing application(s) and the licensee's renewal application.

(4) A departure from the regular schedule set forth in a time-sharing agreement will be permitted only in cases where a written agreement to that effect is reduced to writing, is signed by the licensees of the stations affected thereby, and is filed in triplicate by each licensee with the Commission, Attention: Audio Division, Media Bureau, prior to the time of the proposed change. If time is of the essence, the actual departure in operating schedule may precede the actual filing of the written agreement, provided that appropriate notice is sent to the Commission in Washington, DC, Attention: Audio Division, Media Bureau.

[65 FR 7640, Feb. 15, 2000, as amended at 78 FR 2106, Jan. 9, 2013]

§ 73.853 Licensing requirements and service.

(a) An LPFM station may be licensed only to:

(1) Nonprofit educational organizations and upon a showing that the proposed station will be used for the advancement of an educational program; and

(2) State and local governments and non-government entities that will provide non-commercial public safety radio services.

(3) Tribal Applicants, as defined in paragraph (c) of this section that will provide non-commercial radio services.

(b) Only local organizations will be permitted to submit applications and to hold authorizations in the LPFM service. For the purposes of this paragraph, an organization will be deemed local if it can certify, at the time of application, that it meets the criteria listed below and if it continues to satisfy the criteria at all times thereafter.

(1) The applicant, its local chapter or branch is physically headquartered or has a campus within 16.1 km (10 miles) of the proposed site for the transmitting antenna for applicants in the top 50 urban markets, and 32.1 km (20 miles) for applicants outside of the top 50 urban markets;

(2) It has 75% of its board members residing within 16.1 km (10 miles) of the proposed site for the transmitting an-

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tenna for applicants in the top 50 urban markets, and 32.1 km (20 miles) for applicants outside of the top 50 urban markets; or

(3) In the case of any applicant proposing a public safety radio service, the applicant has jurisdiction within the service area of the proposed LPFM station.

(4) In the case of a Tribal Applicant, as defined in paragraph (c) of this section, the Tribal Applicant's Tribal lands, as that term is defined in § 73.7000, are within the service area of the proposed LPFM station.

(c) A Tribal Applicant is a Tribe or an entity that is 51 percent or more owned or controlled by a Tribe or Tribes. For these purposes, Tribe is defined as set forth in § 73.7000.

[65 FR 7640, Feb. 15, 2000, as amended at 73 FR 3216, Jan. 17, 2008; 78 FR 2107, Jan. 9, 2013]

§ 73.854 Unlicensed radio operations.

No application for an LPFM station may be granted unless the applicant certifies, under penalty of perjury, that neither the applicant, nor any party to the application, has engaged in any manner, including individually or with persons, groups, organizations, or other entities, in the unlicensed operation of any station in violation of Section 301 of the Communications Act of 1934, as amended, 47 U.S.C. 301. If an application is dismissed pursuant to this section, the applicant is precluded from seeking *nunc pro tunc* reinstatement of the application and/or changing its directors to resolve the basic qualification issues.

[85 FR 7889, Feb. 12, 2020]

§ 73.855 Ownership limits.

(a) No authorization for an LPFM station shall be granted to any party if the grant of that authorization will result in any such party holding an attributable interest in two or more LPFM stations.

(b) Notwithstanding the general prohibition set forth in paragraph (a) of this section, Tribal Applicants, as defined in § 73.853(c), may hold an attributable interest in up to two LPFM stations.

(c) Notwithstanding the general prohibition set forth in paragraph (a) of