

INSTRUCTIONS FOR POINT SUPPLEMENT TO PENDING FCC 349 (Noncommercial Educational FM Translator Stations)

GENERAL INSTRUCTIONS:

Purpose of Supplement/What to Submit: Applicants who filed FCC Form 349 to construct noncommercial educational (NCE) FM Translator stations prior to June 2000, and that are mutually exclusive with other such applicants, must supplement their applications to be considered under a new point selection system.

Although applicants may use any June 2000 or later version of the Form 349 to submit a supplement, we have compiled the attached supplement as a convenience to applicants. It contains Section IV of the revised Form 349 (the point information that was not included previously) along with identifying information and portions of the instructions and worksheets pertaining to the new section. Applicants needing to amend only Section IV may use this supplement alone. Applicants needing to report any additional changes that have occurred since their original filing (such as any changes in ownership) may use the Form 349 (June 2000 or later) or may use this supplement and attach other pertinent sections of Form 349 along with certifications pertaining to those other sections. The deadline for filing this supplement will be announced by public notice. An applicant satisfies its certification that it has submitted documentation to the Commission by attaching that documentation to its supplement or by concurrently submitting the documentation to the Commission's reference room for inclusion in its file.

Reference Dates: Applicants should note that Form 349 (which forms the basis for this supplement) was designed primarily for applicants to use prospectively in filing initial applications. Its questions and instructions thus are sometimes phrased in terms of circumstances at the time of application or at close of a filing window, which may not be applicable to pending applicants. **For supplements to pending applications, filed by a special supplement date announced by public notice, applicant should provide non-technical information based on the date of supplement. For answers requiring a reference to technical information, the applicant must use the technical information that was on file as of the group s B cut-off date or as of April 21, 2000** (for applicants in closed groups where there was no "B" cut-off). An applicant must adjust downward for any detracting changes made after those dates but will not gain points for any enhancing changes made after those dates.

Nontechnical Example: A local applicant filing an initial application would generally be considered "established" and thereby eligible for points if it was local for at least the 24

months preceding application. However, a pending applicant filing a supplement will be established if it was local for at least the 24 months preceding the date of the timely filed supplement.

Technical Example: An applicant identified site A in its initial application, filed a voluntary amendment changing to site B the day before its B cut-off date, but recently lost that site for reasons beyond its control and thus moved to site C shortly before filing its supplement. The applicant's maximum claim of coverage and population is that it would achieve from site B, but it must reduce its claim if new figures from site C would be inferior. It cannot enhance its claim if the new figures from site C are superior.

Form vs. Commission Order: The Commission's Memorandum Opinion and Order in MM Docket 95-31 established some special provisions applicable to pending applicants only (such as a limited opportunity to enhance certain qualifications between the date of application and the date of supplement). In the event that an applicant believes that its answer would differ depending on whether the applicant followed generally applicable form instructions or specific language applicable to pending applications in the Commission's Memorandum Opinion and Order, the applicant should answer in accordance with the Memorandum Opinion and Order.

INSTRUCTIONS FOR SECTION IV: POINT SYSTEM FACTORS

On channels reserved for noncommercial educational use, the Commission will grant the application of a translator providing fill-in service over one that extends the area of the primary station. In the event of conflicting mutually exclusive applications of the same type (fill-in or non fill-in), however, the Commission will conduct a paper hearing process by applying a point system to select one application for grant. The point system was established in Report and Order, Reexamination of the Comparative Standards for Noncommercial Educational Applicants, Docket No. 95-31, FCC 00-120, 15 FCC Rcd 7386 (2000) and clarified by a subsequent Memorandum Opinion and Order. The applicant's qualification for points is determined as of the closing of the filing window, assuming the applicant continues to qualify for all points claimed at the time of selection. Thus, points cannot be enhanced by changes made after the close of the deadline for filing of competing applications, but may be reduced by such changes.

Item 1: Established Local Applicant. Applicant should complete Worksheet #3. Established local applicants may claim 3 points. An applicant is considered established if it has been local for at least the 24 months immediately preceding application. A nongovernmental applicant is local if, within 25 miles of the reference coordinates for the proposed community of license, applicant has a school campus, its primary physical headquarters, or the primary residences of 75% of its governing board members. A local headquarters or residence must be a primary place of business or residence and not, for example, a post office box, lawyer's office, branch office, or vacation home. Governments are also considered local throughout the area within their jurisdiction (For example, a state government is local throughout a state, whereas a city Board of Education is local throughout the city). An applicant claiming points as an established local applicant, must place supporting documentation in a local public inspection file and submit to the Commission copies of the documentation. Examples of acceptable documentation include corporate material from the secretary of state, lists of names, addresses, and length of residence of board members, and copies of governing documents requiring a 75% local governing board, course brochures indicating that classes have been offered at a local campus for the preceding two years, etc.

Item 2: Diversity of Ownership: If no party to the application has an attributable interest in another authorized station with an overlapping principal community contour as identified in 47 C.F.R. Section 73.7003(b)(2), the applicant can claim 2 points. Parties are those people or entities defined in the Instructions to Section II, Items 6 and 7. For purposes of this question, only same service stations (radio or TV) are relevant. For example, an applicant for a new noncommercial educational FM translator station must consider whether there are attributable interests in overlapping radio stations (AM or FM stations and FM translators), but need not consider any attributable TV station for purposes of claiming this point. When counting translator stations count all non-fill-in stations, *i.e.*, those that extend outside the applicant's primary station's service contour. An applicant claiming points for diversity of ownership must place supporting documentation in a local public inspection file and submit to the Commission copies of the documentation. The preferred documentation is a contour map showing the principal community contours of the proposed station and of other attributable stations whose principal community contours overlap or come within 10 miles of the proposed station's contours. Applicants with no other attributable stations or with attributable stations more distant should so state.

Item 3: State-wide Network: If the Applicant has not claimed a credit for local diversity in Question 2 above, it should complete Worksheet 4 to see whether it qualifies for a 2 point credit as a state-wide network. Applicants may not claim both the state-wide network and local diversity credit. Both public and private entities can qualify for the state-wide network credit, provided that they meet the requirements set out in 47 C.F.R. Section 73.7003(b)(3), which are incorporated into Worksheet 4. National and regional

networks generally will not qualify for this credit. Applicants who determine, after completing Worksheet 4, that they qualify should answer "Yes." All others should answer "No." Applicants claiming points as a state-wide network must place supporting documentation in their local public inspection file and submit to the Commission copies of the documentation. Preferred documentation includes identification of the names, locations, accrediting bodies, and number of schools which the applicant is currently serving and those that it will serve, and an indication of whether the schools are under the applicant's jurisdiction or are being served pursuant to a coordinated agreement with another authority. If the schools are not under the applicant's jurisdiction, the applicant should include documentation of the terms of its agreement with the entity with authority over the schools.

Item 4: Technical Parameters. An applicant that provides the best technical proposal among the competing applicants, in terms of area and population served, may be eligible for additional points. Applicant should indicate the area and population within its proposed 60 dBu service contour. Area must be measured in square kilometers and exclude significant areas of water, *e.g.* ocean and lakes. Population should be measured using the most recent census block data available from the United States Bureau of Census. If applicant's claimed coverage is superior to all others in terms of both area and population by at least 10%, the Commission will award 1 point. If the proposal is superior to all others by at least 25%, the Commission will instead award 2 points. The applicant should place in its local public inspection file a statement of how the technical parameters were calculated, *e.g.*, the year and blocks of census information used, and the method used to determine area, including the amount of area excluded for specific large areas of water. The applicant should submit to the Commission copies of this information. Applicant may use Worksheet 5.

Tie Breakers

If two or more applicants are tied under the point system, the Commission will apply a series of tie breakers, until the tie is broken. If the tie cannot be broken by Questions 5 or 6 below or by voluntary settlement the Commission will select the first application received.

Item 5(a): Existing Authorizations. If mutually exclusive applicants differ in their number of existing authorizations, the applicant with the fewest attributable authorizations at the time of filing will be chosen. Applicant should indicate the number of attributable radio authorizations held by parties to the application nationwide. Include both licenses and construction permits, whether commercial or noncommercial. Count all full service AM and FM stations. Count translator stations providing non-fill-in service (*i.e.*, those extending a station's service area). Do not count translators providing fill-in only service in determining the number of stations for this question.

Item 5(b): Indicate the number of other attributable fill-in authorizations. The Commission will consider this in the event of a tie between applicants seeking fill-in service.

Item 6: Pending Applications. If a tie remains between mutually exclusive applicants after considering question 5 (existing authorizations), the Commission will select the applicant with the fewest pending radio applications at the time of filing. Applicant should indicate the number of applications in which parties to the application hold an attributable interest. Include applications for new stations and for major changes to existing stations, whether commercial or noncommercial full service or translator (other than fill-in station). Do not include other applications (e.g. voluntary assignment of license, license renewal, minor change in existing facilities.)

FCC NOTICE TO INDIVIDUALS REQUIRED BY THE PRIVACY ACT AND THE PAPERWORK REDUCTION ACT

The FCC is authorized under the Communications Act of 1934, as amended, to collect the personal information we request in this form. We will use the information provided in the application to determine whether approving this application is in the public interest. If we believe there may be a violation or potential violation of a FCC statute, regulation, rule or order, your application may be referred to the Federal, state or local agency responsible for investigating, prosecuting, enforcing or implementing the statute, rule, regulation or order. In certain cases, the information in your application may be disclosed to the Department of Justice or a court or adjudicative body when (a) the FCC or (b) any employee of the FCC; or (c) the United States Government is a party to a proceeding before the body or has an interest in the proceeding. In addition, all information provided in this form will be available for public inspection.

If you owe a past due debt to the federal government, any information you provide may also be disclosed to the Department of Treasury Financial Management Service, other federal agencies and/or your employer to offset your salary, IRS tax refund or other payments to collect that debt. The FCC may also provide this information to these agencies through the matching of computer records when authorized.

If you do not provide the information requested on this form, the application may be returned without action having been taken upon it or its processing may be delayed while a request is made to provide the missing information. Your response is required to obtain the requested authorization.

We have estimated that each response to this collection of information will take 5 hours. Our estimate includes the time to read the instructions, look through existing records, gather and maintain the required data, and actually complete and review the form or response. If you have any comments on this estimate, or on how we can improve the collection and reduce the burden it causes you, please write the Federal Communications Commission, AMD-PERM, Paperwork Reduction Project (3060-0405), Washington, DC 20554. We

will also accept your comments via the Internet if you send them to jboley@fcc.gov. Please DO NOT SEND COMPLETED APPLICATIONS TO THIS ADDRESS. Remember - you are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection, unless it displays a currently valid OMB control number or if we fail to provide you with this notice. This collection has been assigned an OMB control number of 3060-0405.

THE FOREGOING NOTICE IS REQUIRED BY THE PRIVACY ACT OF 1974, P.L. 93-579, DECEMBER 31, 1974, 5 U.S.C. 552a(e)(3), AND THE PAPERWORK REDUCTION ACT OF 1995, P.L. 104-13, OCTOBER 1, 1995, 44 U.S.C. Section 3507.

**POINT SUPPLEMENT TO PENDING FCC 349 FILED PRIOR TO POINT SYSTEM
 (NONCOMMERCIAL EDUCATIONAL FM TRANSLATOR STATION)**

File Number of Application to be Supplemented: _____

City/State of Proposed Facility: _____

Legal Name of the Licensee/Permittee		
Mailing Address		
City	State or Country (if foreign address)	ZIP Code
Telephone Number (include area code)	E-Mail Address (if available)	
	Call Sign	Facility Identifier
Contact Representative (if other than licensee/permittee)		Firm or Company Name
Telephone Number (include area code)	E-Mail Address (if available)	

Section IV -- Noncommercial Educational Point System Factors -- New and Major Change Applications on Reserved Channels Only (used to select among mutually exclusive applications for new stations and major modifications) **NOTE:** Applicants will not receive any additional points for amendments made after the close of the application filing window.

Preliminary Matter: Does this application provide fill-in service only? Yes No

1. **Established Local Applicant:** Applicant certifies that for at least the 24 months immediately prior to application, and continuing through the present, it qualifies as a local applicant pursuant to 47 C.F.R. Section 73.7000, that its governing documents require that such localism be maintained, and that it has placed documentation of its qualifications as an established local applicant in a local public inspection file and has submitted to the Commission copies of the documentation. Yes (3 points) No (0 points)

2. **Diversity of Ownership:** Applicant certifies that the principal community (city grade) contour of the proposed station as identified in 47 C.F.R. Section 73.7003(b)(2) does not overlap the principal community contour of any other authorized radio station (including AM, FM, and non-fill-in FM translator stations, commercial or noncommercial) in which any party to the application has an attributable interest as defined in 47 C.F.R. Section 73.3555, that its governing documents require that such diversity be maintained, and that it has placed documentation of its diversity qualifications in a local public inspection file and has submitted to the Commission copies of the documentation. Yes (2 points) No (0 points)

3. **State-wide Network:** Applicant certifies that (a) it has NOT claimed a credit for diversity of ownership above; (b) it is one of the three specific types of organizations described in 47 C.F.R. Section 73.7003(b)(3); and (c) it has placed documentation of its qualifications in a local public inspection file and has submitted to the Commission copies of the documentation. Yes (2 points) No (0 points)

4. **Technical Parameters:** Applicant certifies that the numbers in the boxes below accurately reflect the new (increased) area and population that its proposal would serve with a 60 dBu signal measured in accordance with the standard predicted contours in 47 C.F.R. Section 73.313(c) and that it has documented the basis for its calculations in the local public inspection file and has submitted copies to the Commission. Major modification applicants should include the area of proposed increase only (exclude the station's existing service area). (Points, if any, will be determined by FCC) Yes No

New (increased) area served in square kilometers (excluding areas of water):

Population served based on the most recent census block data from the United States Bureau of Census using the centroid method:

This box is for FCC use only:

0 points.

Technical Points:

1 point. Applicant's proposal covers the largest area and population, and both area and population are 10% greater than next best proposal; or

2 points. Applicant's proposal covers the largest area and population and both area and population are 25% greater than next best proposal.

POINTS CLAIMED BY APPLICANT (from Questions 1-3)

TECHNICAL POINTS? (from Question 4)

TOTAL POINTS

Tie Breakers

5. **Existing Authorizations.** a. By placing a number in the box, the applicant certifies that it and any persons and organizations with attributable interests in the applicant pursuant to 47 C.F.R. Section 73.3555 have, as of the date of filing, existing authorizations for the following number of relevant broadcast stations. FM translator applicants should count all attributable full service radio stations, AM and FM, commercial and noncommercial and FM translator stations other than fill-in stations.

(number of attributable commercial and noncommercial licenses and construction permits)

b. (Fill-in Applicants Only.) By placing a number in the box, the applicant certifies that, in addition to the station identified in 5(a), it and any persons and organizations with attributable interests in the applicant pursuant to 47 C.F.R. Section 73.3555 have, as of the date of filing, existing authorizations for the following number of fill-in FM translators.

6. **Pending Applications.** a. By placing a number in the box, the applicant certifies that it and any persons and organizations with attributable interests in the applicant pursuant to 47 C.F.R. Section 73.3555 have, as of the date of filing, pending applications for new or major changes to the following number of relevant broadcast stations. FM translator applicants should count all attributable full service radio stations, AM and FM, commercial and noncommercial and FM translator stations other than fill-in stations.

(number of pending commercial and noncommercial applications)

- b. (Fill-in Applicants Only.) By placing a number in the box, the applicant certifies that, in addition to the station identified in 5(a), it and any persons and organizations with attributable interests in the applicant pursuant to 47 C.F.R. Section 73.3555 have, as of the date of filing, existing authorizations for the following number of fill-in FM translators.

Section VI -- Certification

I certify that the statements in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith. I acknowledge that all certifications and attached Exhibits are considered material representations. I hereby waive any claim to the use of any particular frequency as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and request an authorization in accordance with this application. (See Section 304 of the Communications Act of 1934, as amended.)

Typed or Printed Name of Person Signing	Typed or Printed Title of Person Signing
Signature	Date

WORKSHEET #3

ESTABLISHED LOCAL APPLICANT (Section IV, Question 1)

1. Is the applicant currently local, for purposes of the NCE point system?

- a. **Local Campus.** Applicant operates a school campus within 25 miles of the reference coordinates* of the proposed community of license. Yes No
- b. **Local Headquarters.** Applicant has a local headquarters (primary place of business) within 25 miles of the reference coordinates* of the proposed community of license. NOTE: A local headquarters is the applicant's primary place of business and not, for example, a post office box or branch office. Yes No
- c. **Local Governing Board.** (1) At least 75% of the members of applicant's governing board have for the preceding two years maintained their primary residence within 25 miles of the reference coordinates* of the proposed community of license AND (2) applicant's governing documents (e.g., by-laws) require that this 75% local characteristic of the governing board be maintained for future boards as well. NOTE: A primary residence is a domicile, and not for example, a vacation home or a student's temporary school address. For example, an address may be a domicile if it is the address from which the board member is registered to vote, maintains his driver's license, and/or files his federal income taxes. Yes No
- d. **Government Entity Within Own Jurisdiction.** Applicant is a government entity whose authority encompasses the proposed community of license. Example: Applicant is the Board of Regents of a State University System applying for a station within its own state or a City Board of Education applying for a station within its city. Yes No

*A community's reference coordinates are generally the coordinates listed in the United States Department of Interior publication entitled "Index to the National Atlas of the United States." An alternative reference point, if none is listed in the Atlas Index, is the coordinates of the main post office.

Applicants answering "Yes" to a, b, c, or d should proceed to Question 2. Those answering "No" to all a, b, c and d should answer "No" in Section IV, Question 1.

2. Is the applicant established?

Yes No

For the period beginning two years (24 months) prior to application, and continuing without interruption through present, has the applicant been able to answer "Yes" to at least one of a, b, c or d above.

Note For Applicants Amending Applications Filed Prior to Point System: Answer for 2 years prior to original application continuing through present except that pre-point system applicants who answered in 1(c)(2) above that they have the requisite by-laws may answer as if those by-laws have always been in place.

Applicants answering "No" to Question 2 of this worksheet should answer "No" to Section IV, Question 1. Applicants answering "Yes" to both Question 1 and Question 2 of this worksheet should answer "Yes" to Item 22, place documentation in their public file and submit to the Commission copies of the documentation.

WORKSHEET #4

STATE-WIDE NETWORKS (Section IV, Question 3).

1. Has the applicant claimed a credit for local diversity of ownership in Section IV, question 2? Yes No

Applicants answering "Yes" are not eligible to claim an additional credit as a statewide network and must answer "No" to Section IV, question 3. All other applicants should continue to answer the following questions.

2. For applicants that control schools, do all of the following apply?

Applicant has authority over a minimum of either: 50 full-time elementary and/or secondary schools; or 5 full-time college and/or university campuses. Yes No

The 50 schools/5 campuses are accredited by a state department of education and/or a recognized regional/national educational accrediting organization. Yes No

The 50 schools/5 campuses are within a single state. Yes No

The 50 schools/5 campuses are encompassed by the combined primary service contours of the proposed station and applicant's existing station(s). Yes No

Applicant's existing station(s) are regularly providing programming to schools/campuses within the existing primary service contours in furtherance of their curriculum and the proposed station will increase the number of schools applicant will regularly serve. Yes No

Applicants answering "Yes" to all of the subparts above should answer "Yes" to Section IV, Question 3, and should place documentation supporting the answers in a local public inspection file and submit to the Commission copies of the documentation. Other applicants should continue with this worksheet.

3. For applicants that do not control schools, or who control schools that do not meet the above requirements, do all of the following apply?

Applicant will regularly provide programming to entities or institutions that, in combination, meet all of the requirements in question 2, above, of this worksheet. Yes No

The applicant will provide the programming in coordination/consultation with the schools/campuses, and for use in the school curriculum. Yes No

The agreement(s) between applicant and the schools/campuses requires service to be regular and ongoing, and applicant intends to provide such service for no less than four years. Yes No

Applicants answering "Yes" to all of the subparts above should answer "Yes" to Section IV, Question 3, and should place documentation supporting the answers above in a local public inspection file and submit to the Commission copies of the documentation. Other applicants should answer "No" to Section IV, Question 3.

WORKSHEET # 5

TECHNICAL PARAMETERS (Section IV, Question 4)

The applicant can use this worksheet to determine the area covered by its proposal. For major modifications of existing stations report the proposed increase in area over that already authorized. For new stations report the proposed area to be covered by the new station.

1. Major Modification Applicants:

- a. Total area to be served by station's 60 dBu (FM) or Grade B (TV) standard predicted _____ sq. kilometers
contour **after proposed modification**
- b. Subtract major areas of water (e.g., lakes, oceans) _____ sq. kilometers
- c. Subtract common area already served by station's existing 60 dBu (FM) or Grade B (TV) _____ sq. kilometers
standard predicted contour
- d. Equals new area to be served by **modified** station _____ sq. kilometers

Applicants for major modifications should take the amount of increased area from (1)(d) above and enter it in Section IV, question 4 of Form 340. Also calculate the population in that increased area using the centroid method based on the most recent census block data from the U.S. Bureau of Census.

2. Applications for New Stations:

- a. Total area to be served by **new station's** 60 dBu standard predicted contour _____ sq. kilometers
- b. Subtract major areas of water (e.g., lakes, oceans) _____ sq. kilometers
- c. Equals Area to be served by **new** station _____ sq. kilometers

The amount of new area in (2)(c) above should be reported in Section IV, question 4 of Form 349. Also calculate the population in that new area using the centroid method based on the most recent census block data from the U.S. Bureau of Census.