

## The FCC's Transfer of Control Process for Noncommercial Stations

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Under the FCC's rules, members of the governing board of a noncommercial educational licensee (for example, a Board of Directors, Tribal Council, Board of Regents, etc.) are treated as having an ownership interest in the licensee's stations. These "attributed" ownership interests must be reported in biennial Ownership Reports (FCC Form 323-E). If the membership of licensee's board has turned over 50% or more since the FCC granted an application (not just as listed in an Ownership Report) seeking FCC consent to the board, then the licensee must file a Transfer of Control application.

There are three important things to keep in mind when determining if you need to file a Transfer of Control application:

- The FCC only consents to a licensee's board through grantable applications, such as an assignment application or an application for a new license. The FCC does not approve of a licensee's board through routine filing of Ownership Reports.
- If changes of 50% of the board occur gradually (i.e., over more than one year) through the appointment and election procedures specified by the licensee's governing documents, a short form Transfer of Control application (FCC Form 316) is appropriate.
- If a licensee experiences a turnover of its board membership 50% or more within a one-year period, a "major change" has occurred and a long form Consent to Transfer Control application (FCC Form 315) is required.

The FCC staff exempts any licensee that is a "governmental entity" from some of the transfer of control process. Examples of a licensee that is a governmental entity would be any station licensed to a municipality or township, a Tribe, or a Board of Trustees of a state university system. For these licensees, the FCC only requires the routinely filed biennial Ownership Reports, *unless* there is a "major change" in ownership, i.e., 50% or more within a calendar year, in which case the licensee must file a FCC Form 316.

For any questions regarding the FCC's Transfer of Control process for NCE stations, please contact Colin Black Andrews at [candrews@gsblaw.com](mailto:candrews@gsblaw.com), or call (202)965-7880 and ask to speak to a member of the Communications Practice Group.

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