

## AMENDMENT TO ASSIGNMENT APPLICATION

Lane College, proposed assignee, amends its pending joint application for assignment of license in response to an informal request of the Commission staff.

This amendment includes:

- (A) A request for waiver of 47 CFR §73.865
- (B) The legal qualifications section of FCC Form 340

### REQUEST FOR WAIVER

Lane College, the proposed assignee, requests that the Commission waive its rules, specifically rule 73.865 (which limits the assignability of low power licenses) in order to permit the assignment of the WJKR-LP license.

When the Commission established the current Low Power FM Service (47 CFR § 73.801, et seq.) its did so to further “Our goal in creating a new LPFM service is to create a class of radio stations designed to serve very localized communities or under represented groups within communities.” (See, Creation of Low Power Radio Service, 19 CR 597, 65 FR 7615 (January 27, 2000 (“LPFM R&O”), at para. 4). And in particular the emphasis was to be on community based organizations. As the Commission explained, “Another goal expressed in the Notice was that any new LPFM service specifically include the voices of community based schools, churches and civic organizations.” Id, para 5.

From the outset of this service the Commission has voiced a concern that the licenses should not become the material for speculators, thus delaying the initiation of service to a community and thus considered restrictions on the sale of LPFM stations to deter the filing of speculative applications and trafficking in construction permits. LPFM R&O, para. 161. Initially the Commission limited the transferability of licenses. The Commission stated that a prohibition on transfers will best promote the Commission’s interest in ensuring that spectrum is used for low power operations as soon as possible, without the delay associated with license speculation. However, the Commission in reconsidering that policy and during the interim delegated to the Media Bureau the authority to act on appropriate waivers of Rule 73.855:

20. As discussed in detail above, our current rule prohibiting the transfer of LPFM stations is hampering the LPFM service by, for example, impeding routine transitions to new governing boards and limiting the ability of an LPFM licensee to assign its license to a new, jointly-controlled entity composed of several similarly focused organizations. We believe that introducing some level of transferability to the LPFM service is critical. We also believe that delaying relief to LPFM stations until this proceeding is completed will

not serve the public interest. Accordingly, we delegate to the Media Bureau authority to consider, on a case-by-case basis, requests for waivers of Section 73.865 of our rules. The Media Bureau may grant a waiver upon determination that such waiver will maximize spectrum use for low power FM operations. For example, waiver may be appropriate, assuming the public interest would be served, in certain circumstances: a sudden change in the majority of a governing board with no change in the organization's mission; development of a partnership or cooperative effort between local community groups, one of which is the licensee; and transfer to another local entity upon the inability of the current licensee to continue operations. This is not an exhaustive list of circumstances appropriate for waiver. However, until we have further considered the transferability issue, we do not believe that waiver is appropriate to permit the for-profit sale of an LPFM station to any entity or the transfer of an LPFM station to a non-local entity or an entity that owns another LPFM station. (*Creation of a Low Power Radio Service*, MM Docket No. 99-25, 35 CR 875, 20 FCC Rcd 6563 (March 17, 2005) ("Second Reconsideration") at para 20").

Lane College is such an organization which will be able to financially support the continued LPFM service now provided by the assignor. The college meets the eligibility criteria and has shown in Exhibit 9 and Exhibit 11 of the application that (i) that it is in fact a nonprofit educational organization, (ii) that it has an educational objective, and (iii) how its programming will further that objective. LPFM R&O, para, 19. Lane College was founded in 1882 and incorporated (not-for-profit) as a liberal arts college in 1909. Lane College is a small, private, co-educational, church-related institution which provides a liberal arts curriculum leading to baccalaureate degrees in the Arts and Sciences. The College accepts persons regardless of race, color, gender, religion, age, or national origin. Founded by Bishop Isaac Lane, a former slave, Lane College is one of the nation's oldest historically black colleges.

The assignment of the license to Lane College will continue the local, community based objective of the LPFM service.

In the case of Lane College it is able to certify that it is physically headquartered and has a campus, within 10 miles of the reference coordinates of the proposed transmitting antenna.

It should also be noted that all of its officers, and eight members of its Board of Trustees reside in Jackson, Tennessee, with eleven additional members of its Board of Trustees residing in nearby Memphis, Tennessee. The assignee, Lane College, has no other mass media (broadcasting, CATV, or newspapers) ownership interest nor does it have any connection with, any other mass media.. None of its officers, nor any of its trustees, serve as officers or directors of any other mass media (broadcasting, CATV, or newspapers) nor do any of them have any ownership interest in, or connection with, any other mass media..

The proposed sale of the station to Lane College is not the result of speculation nor trafficking. As explained in the application at Exhibit 4 there is no monetary consideration given

for the proposed assignment of the license to Lane College. The station has been built and operated by the assignor but it determined that it is best if the college is able to continue the service with its resources.

By granting this waiver, the Commission will permit the continue use of this LPFM station by the college which has the financial resources and personnel to assure that the African-American community in Jackson, TN has access to programing designed to meet their needs and interests. The college is exactly the type of entity for which this service was designed and the public interest is best served if this application is granted.

### **LEGAL QUALIFICATIONS-FORM 340**

The legal qualifications section of FCC Form 340 (for new construction permit applications) is attached.