



Title: POLITICAL BROADCASTING FOR FEDERAL
CANDIDATES, STATIONS WMVS/MMVT

Code: 110201

Policy Reference: 10100, Public TV Stations

This Administrative Regulation and Procedure governs the response of WMVS/MMVT, Milwaukee, Wisconsin, to all requests by candidates for federal elective office for broadcast time.

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- I. Requests for Time: Legally Qualified Candidates Only

The station will honor only requests from legally qualified candidates for federal elective office. Moreover, all such requests must be for the candidate's "use"; that is, the candidate must personally appear by voice or image in each use. If the use is a program, the candidate must be the focus of the program and his/her appearance must be substantial in length in relation to the entire program.

The station will not entertain any requests until the candidate has become legally qualified, as that term is used in the Communications Act and FCC Rules. In situations where doubt exists, the candidate will be required to satisfy the station of his/her legal qualifications. The station will not entertain requests from persons who may intend to, but have not yet become, legally qualified.

The station will not accept any requests for political broadcasting time that are not requested by the candidate or an authorized agent for the candidate's own "use." Requests from political committees and similar organizations that are not authorized by a federal candidate will not be accepted.



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II. Studio Rates

The station will make no charge for broadcast time. However, the station will charge candidates for any use of its studio facilities, including crew time, for a live or taped appearance (there is no studio charge for the broadcast of a filmed or videotaped "use"). The station's normal schedule of charges for studio use will govern the studio charges for all candidates. This schedule will be made available upon request. Candidates are advised that studio time for such appearances is available only on a limited, variable schedule, and any studio appearance, live or taped, must be coordinated in advance with the station.

All such charges are payable by cash in advance only. If payment is by check, the check must have cleared before studio use can begin. Candidates and their agents are responsible for making payment sufficiently in advance to satisfy this requirement.

III. Candidate Documentation, Videotape and Film

Section 73.1212 of the FCC's Rules requires that certain identifying information, provided by the candidate, must be placed in the station's public inspection file before any part of the candidate's schedule can be broadcast. Therefore, the candidate must provide a list of the chief executive officers, members of the executive committee, or members of the Board of Directors of the corporation, committee, association, or other unincorporated group which purchases time on the candidate's behalf. This list will be kept on file for public inspection for two years. The schedule will not begin until this list is received.

The candidate (or his/her authorized agent) must also execute the station's attached "Agreement and Indemnification for Political Candidates." (This form meets all FCC limits on the extent to which stations may seek indemnification from candidates.) The schedule will not begin until this executed form is received by the station.

Candidates supplying taped announcements or programs must ensure that the tape contains proper sponsorship identification, as required by the Communications Act, FCC Rules, and Federal Election Commission Rules, and that the tape (including the sponsorship identification) is no longer than the contractually agreed-upon length. The tape must also meet all FCC technical standards, and such other reasonable technical standards as the station has established for its regular programming.



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Such tape must be delivered to the station sufficiently in advance of the start of schedule so that the station can determine, for each announcement and program, that the segment is of the contractually agreed-upon length, complies with applicable technical standards, contains the proper sponsorship identification within the agreed-upon length, and is a "use" (that is, the candidate must personally appear by voice or image). Such videotapes or other station acceptable broadcast format should be delivered to the station at least 48 hours in advance of broadcast to permit corrections, if necessary, although the station will make every effort to review tapes that are submitted closer to the start of schedule.

Tapes which do not meet the above criteria will not be broadcast, and the station will make all reasonable efforts to contact the candidate or his/her authorized agent to explain the deficiency and advise as to the necessary corrections. To avoid violating the "no-censorship" provision of Section 315 of the Communications Act, IN NO CASE WILL THE STATION'S REVIEW OF A CANDIDATE'S TAPE BE BASED ON, OR INVOLVE IN ANY WAY, THE CONTENT OF THE CANDIDATE'S MESSAGE.

Candidates who deliver their message live are advised that they must comply with the sponsorship identification and "use" (personal appearance by voice or image) requirements of this regulation and procedure, and they must provide the station with reasonable assurance before broadcast that those requirements will be satisfied. In no event, however, will the station make any content-based review of the candidate's proposed message, either through advance review of a script or any other means.

Station talent is not available under any circumstances for the production of political broadcasting messages.

IV. Reasonable Access; Equal Opportunities

Federal candidates' use of broadcast facilities is governed by Section 312(a)(7) ("reasonable access") and 315 ("equal opportunities"), and by the interpretation of these provisions by the FCC and the courts. The station's policy is designed to comply with these requirements.

A. Availabilities and Time of Request

The station has no policy flatly banning a federal candidate's use appearing in any daypart. Therefore, various types of programs are available on the station in all dayparts, including prime time. A portion of the station's normal weekly program break time also is available for political announcements by candidates



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for "uses." Specific time periods in some dayparts may not be available, however, and placement of political messages is a matter of the station's discretion in all cases.

The station will not place political programs or announcements in or adjacent to news or public affairs programs because of the likelihood of viewer confusion of political messages with the station's informational programming; however, political programs or announcements may still be placed in those dayparts in which the station's informational programming appears.

The stations seek to avoid viewer confusion about candidates' messages that may be perceived as paid "commercials" on this noncommercial station. To guard against such confusion, the station will prefix each political announcement and program with this brief video and audio message:

"The following free message is being broadcast to comply with federal political broadcasting rules and policies."

A similar message will also follow political announcements longer than two minutes.

Federal candidates who are legally qualified may place their requests as early as they wish. However, because of the need to accommodate the requests of other federal candidates for reasonable access, and to ensure the station's capacity to provide equal opportunities to all federal candidates as required by Section 315, no political broadcasting schedule will be considered firm until 10 days before the first day of broadcast; moreover, during the last two weeks of the campaign, no political broadcasting schedule will be considered firm until the candidate has been so notified by the station. Candidates are advised that the station may accept only part of a candidate's request in order to permit fulfillment of other political broadcasting demands imposed by law.

Although this is an inconvenience to the station as well as candidates, this flexibility is necessary to permit meeting various statutory requirements.

B. Candidate Requests for Broadcast Time

Candidates interested in using time on the station are invited to contact the following:



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Title Telephone No.

Vice President and General Manager (414) 271-1036

Although station representatives will not advise any candidate as to content, they will supply information about openings in the station's schedule. Information about requests or uses made by other federal candidates will not be divulged by telephone. Candidates who seek that information are reminded that it is available in the station's public inspection file.

Candidates may also request political broadcasting time by letter, telex, mailgram, e-mail or similar means.

C. Station's Evaluation and Response

The station will promptly evaluate each federal candidate's request for political broadcasting time under the standards enunciated by the FCC and the courts. The station will then notify the candidate, by the means most appropriate under the circumstances, whether the request is accepted or rejected, or make the candidate a counteroffer, as the case may be.

When the station does not simply accept the candidate's request for time, the station will explain its decision in a response to the candidate, delivered in writing if time permits. In making its decision to accept or reject the candidate's request, or to make a counteroffer, the station will analyze the following factors as they apply to each individual request:

1. The candidate's needs and objectives in making the request, as expressed by the candidate. The station will explain how it has considered the nature and purpose of the candidate's request. However, as part of this analysis, the station will NOT consider any of the following factors whatsoever: the candidate's needs as they relate to his subjective, personal, or immediate political desires; the political importance or urgency of the candidate's needs, in isolation or in the context of a campaign; the political wisdom of the request or the relative audience-attracting effectiveness of longer versus shorter formats. Candidates are advised that the station is specifically forbidden by FCC policy from including any of these factors in its analysis. Rather, the station might, for example, explain how its counteroffer is responsive to the specific purpose or need that the candidate has expressed. The station may point out that a candidate's stated purpose may be accomplished with a lesser amount of time, even if there is no probability that other candidates will



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- request time. In order for the station to perform this analysis, candidates are requested to inform the station, in their own words, of the needs or purpose for which they are seeking broadcast time for uses. The station will not assume that any candidate's needs are the needs of candidates in general.
2. The number, individual lengths, total time, and timing of access opportunities previously made available to the candidate. If the candidate has had numerous recent access opportunities, the station may be less accommodating than it might be if the candidate had not previously been granted any time. The station recognizes that, at the beginning of a campaign, when the candidate has not made any requests for time, the candidate's initial request will be given greater weight under this criterion than may be given to subsequent requests.
 3. The potential disruption of regular programming that would be created by granting the candidate's request. Only substantial disruption of regular programming will be considered under this criterion; the need simply to make some changes in the program schedule is not a sufficient basis for denying a request under this part of the test.
 4. The number of other federal candidates likely to invoke equal opportunity rights under Section 315 of the Act if the particular candidate's request is granted. The station will consider the reasonable probability of requests by other candidates. The station's estimate will be based upon requests or expressions of interest already received from other federal candidates, particularly opposing federal candidates. At a given point, the potential disruption under this criterion (independent of the third factor, above) may justify denying or limiting a request for time. The likelihood of a large number of requests for equal opportunities may also justify modification of other requirements of reasonable access. For example, it might require the station to limit or eliminate the availability of prime-time program time.
 5. The timing of the request itself, particularly whether the candidate has given reasonable notice of his desire to purchase time, so that the station has sufficient time to adjust its schedule. Under this criterion, a request made months in advance is more likely to be deemed reasonable than a request made only days or hours before the proposed broadcast.

When the station analyzes a candidate's request and does not grant it outright, the station will articulate the basis for its decision by specifically setting forth its analysis under the five-part test above. In each case, the



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station's response will show the extent to which it has attempted to tailor any counteroffer to be as reasonably responsive as possible to the particular candidate's stated purpose in seeking air time.

D. Equal Opportunities

Reasonable access (Section 312(a)(7)) and equal opportunities (Section 315(a)) sometimes work in a confusing combination. In assessing federal candidates' entitlements under these provisions of the act, the station will follow the FCC's interpretation in Carter-Mondale Presidential Committee, Inc., 74 FCC2d 631, 648n.29 (1979). Once a candidate has used the station, s/he is not generally entitled to another use under Section 315 following a subsequent appearance by an opposing candidate. Barring unusual circumstances, such as a particularly long period between appearances, a candidate who has already appeared on the station is foreclosed from receiving "equal opportunities" as a response to an appearance under reasonable access by an opposing candidate. Application of this rule means that two opposing candidates, by virtue of their individual requests as to amount of time and placement, may not appear for precisely equal durations when the times of their respective uses are totaled. Candidates should therefore take this rule into account in considering how best to exercise their entitlements.

E. Last-Minute Requests

Federal candidates should be aware that the FCC has special policies governing last-minute requests (sometimes referred to as "sandbagging"). Candidates who wait until just days before election to make their requests known may find their opportunities severely curtailed, and perhaps foreclosed, by virtue of other federal candidates' requests for time pursuant to the reasonable access and equal opportunities provisions of the act. While the station will view each such request with care, and analyze it according to the test prescribed by the FCC, it is apparent that some such requests are likely to be deemed unreasonable under extreme circumstances. Candidates are therefore advised to provide the station with as much advance warning as possible of their request for availability within the last three weeks of any campaign.

Political candidates will be required to complete an affidavit agreeing to terms of appearance, indemnification, and sponsorship identification.

Office of Responsibility: WMVS/WMVT-TV Station Management
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