

POLITICAL BROADCASTING PUBLIC FILE COMPLIANCE FORMS

FROM

KENTUCKY BROADCASTERS ASSOCIATION

**PREPARED IN COOPERATION
WITH WILKINSON BARKER KNAUER, LLP**

POLITICAL ADVERTISING FORMS

Introduction

Keeping track of the information necessary to comply with FCC rules on political advertising is not an easy task. The FCC in recent years has been aggressive in policing political broadcasting rule violations, particularly those involving the public file requirements. It is therefore important that broadcasters fully understand their obligations. Attached are forms, described in more detail below, which are to be used as a starting point for collecting and organizing the information that you need to comply with these rules. These forms also come with a checklist of actions that stations should take to help track their political file compliance.

The FCC has interpreted its rules to require that orders for advertising time placed on behalf of candidates (whether federal, state or local) or on federal issues must be uploaded to the online public inspection file within one business day of their receipt by the station, even if the order is incomplete at first, is modified before the spots air or is rejected by the station. If there is additional information provided, or there is a modification or rejection of the order, that information should be uploaded, again within one business day (but do not remove the original order from the public file – upload the additional information as separate supplemental documents). For any order (original or modified), the disclosure should include the time periods in which spots have been requested, the price at which spots are to be sold, and the class of time being purchased.

Issue ads fall into two categories: 1) federal issue ads that communicate messages relating to any political matter of national importance; and 2) state or local issue ads that communicate messages relating only to state or local issues. FCC rules require that stations collect and retain different information depending on the type of advertisement and the entity requesting the time. As noted above, for federal issue ads, price, class and schedule information must be uploaded to the file. Also, the FCC requires that the public file disclosure contain a list of all of the candidates and all of the issues mentioned in the ad. Advertisers and agencies may not provide an accurate list of all the candidates and issues discussed, so be sure to review each spot to get the accurate information uploaded.

FCC rules for state and local issues ads (as long as they do not mention any federal issue, federal legislation, or federal candidate – if they do, treat them as a federal issue ad) do not require a list of the issues discussed, nor do they require the uploading of price and schedule information. But for all issue ads - federal, state and local – the name of the sponsor, with an address and phone number of a contact person, must be uploaded to the public file. When the sponsor is not an individual, the file is also to include the names of the executive officers, board of directors, or members of any other governing board. If you are given the name of only one individual as being the entire set of executive officers or members of the governing board by the agency or ad buyer, the FCC requires that you specifically ask if there are other individuals involved in the governance of the sponsor, as the FCC assumes that most legal entities will have more than one officer or director. Keep a record of that inquiry (though that record should not be in the public file).

The attached forms can assist with the collection of other information needed for the file. We provide two political broadcasting forms to help you capture that required information. One form is to be used when a station has a request for time from a federal, state or local candidate or that candidate's authorized campaign committee. A separate form is to be used when a station has a request for time to run an issue advertisement.

Candidate ads are ones purchased by the candidate or their official campaign committee. Issues ads are those purchased by other entities to comment on an election or on other issues of public importance. A federal issue ad will discuss one or more political matters of national importance. Examples of political matters of national importance likely to be discussed in an ad are: an endorsement of or an attack on a legally qualified candidate for federal office (President, Vice President, US Senate or US House of Representatives); any mention of an election or appointment to a federal office; a political issue that is the subject of controversy or discussion at the national level (e.g., immigration, tax reform, gun rights, healthcare policy, etc.); or any national legislative issue of public importance pending before Congress, including issues that are the subject of federal legislation that has been introduced and is pending in Congress at the time a request for air time is made (i.e., it has a current House of Representatives or Senate bill number). These ads come with enhanced disclosure obligations.

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State or local issue ads are ads not purchased by a candidate or a candidate's authorized committee, and the ads do not discuss any political matters of national importance. Such ads would include an endorsement of or an attack on a state or local candidate, where that message does not tie the endorsement or attack to a federal issue or action (such as actions taken when a candidate was serving in the US Congress, or efforts to tie the local candidate to a federal candidate - these kinds of mentions of federal issues likely turn a state or local issue ad into a federal issue ad). Other examples of a state or local issue ad would include a message relating to other strictly state or local issues, like support for or opposition to legislation pending in the state legislature or before a local government authority, or any ad taking a position on support for or opposition to a ballot issue dealing with state or local issues (e.g., a school bond proposal or a state ballot initiative).

These forms help to collect and organize the information needed for the public file – but they are only a start. There are many nuanced issues about what needs to be uploaded and what does not. We suggest that you find other reliable resources that you can use to learn all that you can about the FCC's political broadcasting rules and that you talk to experienced communications counsel to guide you through all of the political obligations that may affect your station.

For more information on the contents of the political file and political broadcasting more generally, please see Wilkinson Barker Knauer LLP's 2020 Political Broadcasting Guide and visit the Broadcast Law Blog for commentary on political broadcasting issues. A good video on the political file requirements, explaining these issues in more detail, is found on the website of the Indiana Broadcaster's Association. Compliance is important, so keep on top of all of the FCC's requirements.

FEDERAL, STATE OR LOCAL CANDIDATE USE ADVERTISEMENT

Political File Form

Station Call Letters and City of License :

Date the Request to Buy Advertising Time Was Received by Station :

Name of Candidate (ex. *Joe Smith*) :

Name of Candidate's Authorized Committee (ex. *Joe Smith for Congress 2022*) :

Name of Treasurer of Authorized Committee :

Name of person or entity requesting time if different from the authorized committee (ex. ad agency name) :

Candidate is a (mark one) :

Federal Candidate (ex. *President, US House, US Senate*)

or

State or Local Candidate (ex. *Governor, State Senate or Mayor*)

Election in which Candidate is Running and Date of Election (ex. *General Election, Nov. 8, 2022 or Democratic Primary, June 23, 2022*) :

Candidate's Political Party, if any (ex. *Democratic, Republican*) :

Office the Candidate is Seeking (no acronyms or abbreviations) (ex. *US Senate; City Council; Congress in the 5th District of California*) :

Signature of Candidate or Authorized Individual on Behalf of the Candidate's Committee :

By this signature, the candidate or the authorized representative of the candidate, certifies that (i) the station has disclosed its political advertising policies and other applicable sales practices; (ii) the purchaser of this advertising time has rights to all content included in this ad; and (iii) for federal candidates, this ad either does not refer to an opposing candidate or, if it does refer to an opposing candidate, it includes, for television ads, a visual for at least four seconds of a clearly identifiable photographic or similar image of the candidate and a clearly readable printed statement, identifying the candidate and stating that the candidate has approved the broadcast and that the candidate's authorized committee paid for the broadcast or, for radio ads, a personal audio statement by the candidate that identifies the candidate, the office the candidate is seeking, and that the candidate has approved the message.

Printed Name of Candidate or Committee Representative signing above:

This Station Does Not Discriminate or Permit Discrimination on the Basis of Race or Ethnicity in the Placement of Advertising

FEDERAL, STATE OR LOCAL CANDIDATE USE ADVERTISEMENT

For Internal Station Tracking Purposes – Not to Be Provided to Candidate

Do Not Upload to Political File

Has the Order been uploaded to the Station's online public file reflecting the airtime schedule requested, class(es) of time to be purchased and rate information *(to be uploaded within one business day of the receipt of the order, whether or not the order is ready to air)*:

Yes

No (if No, discuss with FCC counsel)

Has the certification on the attached Political File Form Been Signed? *(Required for state and local candidates. Federal candidates cannot be forced to sign the form, but can be required to provide a certification providing this ad either does not refer to an opposing candidate or, if it does refer to an opposing candidate, it includes, for television ads, a visual for at least four seconds of a clearly identifiable photographic or similar image of the candidate and a clearly readable printed statement, identifying the candidate and stating that the candidate has approved the broadcast and that the candidate's authorized committee paid for the broadcast or, for radio ads, a personal audio statement by the candidate that identifies the candidate, the office the candidate is seeking, and that the candidate has approved the message if they want to be entitled to lowest unit charge)*:

Yes

No

Has the Ad Copy Been Submitted to the Station? (mark one):

Yes

No

What is the Status of the Airtime Request? (mark one):

Accepted

Accepted but Ad Not Ready for Air (e.g., station has not received the ad or payment for the schedule has not yet been received)

Rejected (station cannot reject candidate ad based on content – only acceptable reason is non-payment or lack of sponsorship ID)

Has the Ad Been Reviewed for Sponsorship ID (must say "paid for by" or "sponsored by") and BCRA *(for federal candidates only - "I'm X and I approved this message")* compliance? (mark one):

Yes

No

FEDERAL, STATE OR LOCAL CANDIDATE USE ADVERTISEMENT

For Internal Station Tracking Purposes – Not to Be Provided to Candidate

Do Not Upload to Political File

Additional Steps for Compliance:

If there were any changes to the order, including the addition or subtraction of spots to be included, any cancellation of all or any part of the order, and any change to the rates that are being charged, did you upload to the political file (within one business day of its completion) any such changes? Such changes should be uploaded to the same folder as the initial order. Do not delete the original order from the public file. Add to the political file any information about changes to an initial order as a supplement to the order without deleting the original order.

When the schedule has run, upload to the political file the exact dates and times the ad ran once your traffic system provides that information for invoices or affidavits of performance. That information must be provided to candidates earlier if requested. Do NOT upload copies of checks or other proof of payment.

IMPORTANT!!!

FCC rules require the timely upload of political file documents to your FCC online public file, so do not delete old documents as you upload additional documents concerning an order. Any deletion of an upload to the public file, even if uploaded again as part of a new documents, resets the document's upload date. Instead, upload additional documents (e.g., changes, cancellations, exact times of the airing of the spots, political forms, etc., as supplements to the initial order.

Date(s) and Details of Discussions with the Advertiser:

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Station Call Letters :

[Redacted]

Date Receive/Requested :

[Redacted]

Sales Contract Number :

[Redacted]

Advertisement Schedule :

Start :

[Redacted]

End :

[Redacted]

NON-CANDIDATE/ISSUE ADVERTISEMENT

Political File Form

Station Call Letters and City of License :

Date Request to Buy Advertising Time Received by the Station :

Name of sponsor of the ad (name must match the sponsor ID in the ad, it must be the full legal name of the applicant and, if applicable, the entity's full legal name should match that in the FEC database or any state political advertising registration database) :

Name of sponsor of the ad (name must match the sponsor ID in the ad, it must be the full legal name of the applicant and, if applicable, the entity's full legal name should match that in the FEC database or any state political advertising registration database) :

Contact person, Address, and Phone Number for Advertiser/Sponsor :

Name of person or entity requesting time if different from sponsor (ex. ad agency name) :

This ad is a (mark one) :

Federal Issue Ad (*the ad "communicates a message relating to any political matter of national importance" by referring to (1) a legally qualified candidate for federal office (federal offices are President, Vice President, US Senator, and US House of Representatives); (2) an election to federal office; or (3) a national legislative issue of public importance (e.g., an issue currently pending in legislation before Congress or an issue that is regularly debated on a national stage. Ex: federal health care reform, federal immigration or tax policies, changes in federal rules on abortion, US Supreme Court nominations, any issue being debated by a federal agency). Any mention of a candidate for federal office or any of these national issues in an ad not purchased by a candidate or their authorized committee makes an ad a federal issue ad; or*

State or Local Issue Ad (*the ad relates only to a state or local issue*)

List All Members of the Advertiser/Sponsor's Governing Group (ex: chief executive officers, executive committee members, or board of directors) :

NON-CANDIDATE/ISSUE ADVERTISEMENT

Political File Form

If Federal Issue Ad was Selected Above, Include Below (use additional pages, if necessary, and provide information for all of the candidates **and** all of the issues mentioned in any Federal Issue Ad) :

The name(s) and office(s) being sought of every candidate mentioned in the ad (no acronyms or abbreviations) :

[Redacted area for candidate names and offices]

The type and date of the election in which any candidate who is mentioned is running (ex: President in General Election, Nov. 3, 2022 or Democratic Primary for the 5th Congressional District of [your state], June 23, 2020) (no acronyms or abbreviations) :

[Redacted area for election type and date]

Every political matter of national importance mentioned in the ad (i.e., political issues that are the subject of controversy or discussion at the national level. Ex. Immigration or Medicare reform) mentioned in the ad :

[Redacted area for political matters of national importance]

Signature of Authorized Representative for Advertiser/Sponsor :

[Redacted signature area]

By this signature, the advertiser/sponsor, certifies that (i) the station has disclosed its political advertising policies and other applicable sales practices; (ii) the purchaser of this advertising time has rights to all content included in this ad; (iii) the advertiser/sponsor agrees to indemnify the station for any and all liabilities incurred by the station for the airing of the advertising provided by the advertiser/sponsor; (iv) the sponsorship identification reveals the full legal name of the sponsor, and that sponsor has paid for this ad from its own funds and is responsible for its content; (iii) the individuals listed above are the only executive officers, members of the executive committee and board of directors or other governing group(s); and (iv) the purchaser of this advertising time has provided to the station a complete list of its governing group.

Printed Name of Authorized Representative for Advertiser/Sponsor :

[Redacted printed name area]

This Station Does Not Discriminate or Permit Discrimination on the Basis of Race or Ethnicity in the Placement of Advertising.

NON-CANDIDATE/ISSUE ADVERTISEMENT

**For Internal Station Tracking Purposes – Not to Be Provided to Advertiser/Sponsor
Do Not Upload to Political File**

For federal issue ads, has the Order been uploaded to the Station's online public file reflecting the airtime schedule requested, class(es) of time to be purchased and rate information (*to be uploaded within one business day of the receipt of the order, whether or not the order is ready to air*):

Yes

No (if No, discuss with FCC counsel)

Has the Copy for the Ad Been Submitted to the Station? (mark one):

Yes

No

Has the Political File Form Certification Been Signed? (mark one):

Yes

No

What is the Status of the Airtime Request? (mark one):

Accepted

Accepted but Ad Not Ready for Air (e.g., station has not received the ad or reviewed it for sponsor ID compliance)

Rejected (a station may reject an issue ad if it believes the content could result in liability to the station or is otherwise not in the public interest)

Has the Ad Been Reviewed for Sponsorship ID (must say "paid for by" or "sponsored by") compliance? (mark one):

Yes

No

Has the Station confirmed in writing that all members of the sponsor's executive officers, board of directors or other governing group have been provided? (*The station must inquire with the sponsor or agency for additional members if only one name is provided – the FCC expects that there are multiple members of any executive committee or Board of Directors. Keep a record of this inquiry, but do not upload it to the political file*).

Yes

No (if No, discuss with FCC counsel)

Has the identity of the sponsor, with an address, phone number and contact person, plus the list of all members of the sponsor's executive officers, board of directors or other governing group, been uploaded to the station's online public file?

Yes

No

NON-CANDIDATE/ISSUE ADVERTISEMENT

**For Internal Station Tracking Purposes – Not to Be Provided to Advertiser/Sponsor
Do Not Upload to Political File**

Has the Ad Been Reviewed to Determine All Political Matters of National Importance and National Legislative Issues of Public Importance, and to Disclose Them on the Form?

Yes (the online political file form includes a listing of all federal candidates and federal issues mentioned in the ad)

No (the ad should not be aired until the station can check “yes”)

Additional Steps for Compliance:

Combine the completed political file form with documents reflecting the airtime schedule, class(es) of time purchased and rate information. (Disclosure of rate information is required for federal issues ads. For state and local issue, price and schedule information is not required unless a federal candidate or issue is mentioned in the ad).

For Federal Issues Ads, upload to the political file (within one business day) the completed political file form with documents reflecting the airtime schedule, class(es) of time purchased and rate information.

For Federal Issue Ads, when the schedule has run, upload to the political file (within one business day of when your traffic system provides that information for invoices or affidavits of performance, or earlier on request) the exact dates and times the ad ran. FCC rules require the timely upload of political file documents, so do not delete and re-upload documents as this resets the document's upload date. Instead, use the move or rename function or upload additional documents as needed.

For Federal Issues ads, if there were any changes to the order, including the addition or subtraction of spots to be included, any cancellation of all or any part of the order, and any change to the rates that are being charged, upload to the political file (within one business day of its completion) any such changes. Such changes should be uploaded to the same folder as the initial order. Do not delete the original order from the public file. Add to the political file any information about changes to an initial order as a supplement to the order without deleting the original order.

Date(s) and Details of Discussions with the Advertiser:

[Redacted text area]

Station Call Letters : [Redacted]

Date Receive/Requested : [Redacted]

Sales Contract Number : [Redacted]

Advertisement Schedule :

Start : [Redacted]

End : [Redacted]