

## FACT SHEET: FCC Political Programming Rules

The FCC's political programming and campaign advertising rules generally govern the circumstances under which radio and TV broadcast stations and other regulatees air political-related content. The FCC's political programming team works directly with broadcasters and advertisers to help resolve legal questions on a number of topics including equal opportunities, lowest-unit charges and comparable rates for candidates, and political ads.

### EQUAL OPPORTUNITIES (SOMETIMES CALLED 'EQUAL TIME')

FCC rules seek to ensure that no legally qualified candidate for office is unfairly given less access to the airwaves – outside of bona fide news exemptions – than their opponent. Equal opportunities generally means providing comparable time and placement to opposing candidates; it does not require a station to provide opposing candidates with programs identical to the initiating candidate.

Equal opportunities and other political-related benefits are available only to individuals who have attained the status of “legally qualified candidate.” These rules do not apply to cable channels or web-based video or audio such as streamed video content, podcasts, or social media.

An individual is a “**legally qualified candidate**” if he/she/they meets all the following criteria:

- has publicly announced their intention to run for office;
- is qualified under applicable state and/or federal law to hold the office being sought; AND
- qualifies for a place on the ballot, or is running as a write-in and has made a substantial showing of his/her candidacy.
  - An individual running as a write-in, in addition to satisfying the first two prongs, must make a “substantial showing,” that is, they must demonstrate that they have engaged to a substantial degree in activities commonly associated with political campaigning, such as making campaign speeches, distributing campaign literature, issuing press releases, maintaining a campaign committee, establishing campaign headquarters, using social media to advance their candidacy, and creating a campaign website. Not all of the listed activities are necessarily required in each case to demonstrate a substantial showing, and there may be activities not listed which would contribute to such a showing.

Generally speaking, **until any candidate satisfies the prongs for a “legally qualified candidate,” the benefits of our political programming rules (e.g., equal opportunities, lowest unit charge) do not apply to the candidate and the obligations do not apply to stations.** The determination of whether an individual is a “legally qualified candidate” depends on the law of the relevant state, whether a candidate is qualified to hold the office for which he or she is a candidate, and whether an individual has qualified for a place on the ballot or is running as a write-in and has made the required substantial showing.

Examples:

- **TV/RADIO PERSONALITY RUNS FOR OFFICE** – If a known personality appears on the air of a broadcast radio or TV show and has achieved the status of “legally qualified candidate,” this will ordinarily constitute a “use” for which the station will be required to entertain requests for Equal Opportunities by opposing legally qualified candidates for the same office. **However, the station is not required to seek out opposing legally qualified candidates and offer them Equal Opportunities.**
  - In situations where an on-air personality decides to run for office, this could lead to requests for Equal Opportunities by opposing legally qualified candidates. In that case, a station may also opt to ask that individual to take a leave of absence from his or her on-

air duties until such time that he/she is no longer a “legally qualified candidate.” Doing so is not a requirement but is a business decision that is totally within the discretion of the station.

- **NEWS EXEMPTIONS – Appearances by legally qualified candidates on specified types of news programs are deemed NOT to constitute a “use” of broadcast facilities and, therefore, do NOT trigger equal opportunities.** Thus, appearances by legally qualified candidates on bona fide newscasts, interview programs, certain types of news documentaries, and during on-the-spot coverage of bona fide news events are exempt from Equal Opportunities.

## **CAMPAIGN ADVERTISING RATES**

The FCC has campaign advertising rate rules because the law seeks to ensure that legally qualified candidates for office are not disadvantaged by facing unfairly high advertising rates during the ends of a campaign or rates that differ from their opponents. The FCC rules require that broadcast stations and cable systems can only charge legally qualified candidates the “Lowest Unit Charges” and “Comparable Rates” for their advertisements.

FCC campaign advertising rate requirements are only applicable during certain time periods within election campaigns and only for the candidate’s own campaigns.

- **Timeframe** – During the 45-day period preceding a primary, caucus or runoff election; and the 60-day period preceding a general or special election (commonly referred to as “lowest unit charge windows”), broadcast stations and other regulatees may not charge legally qualified federal, state and local candidates who purchase time for campaign ads more than the lowest unit amount that their best commercial customer has paid for ads that are of the same class, length, and time of day.
  - Outside of the “windows,” broadcast stations and other regulatees may charge legally qualified candidates rates that are comparable to those that commercial advertisers pay.
- **Only Candidate Ads** – The lowest unit charge requirements only apply to ads paid for and sponsored by legally qualified candidates. They do not apply to issue ads (that is, political ads that are paid for and sponsored by non-candidate persons and entities).

## **POLITICAL AD CONTENT**

**Broadcast stations are prohibited from censoring or rejecting political ads that are paid for and sponsored by legally qualified candidates.** This no-censorship provision does not apply to political ads that are sponsored by non-candidate third parties.

The FCC generally does not:

- Review or pre-approve the content of political ads before they are broadcast
- Ensure the accuracy of statements that are made by candidates and issue advertisers
- Require broadcast stations and other regulatees to provide all sides of controversial issues
- Oversee the nature and extent of the coverage that individual candidates receive under the news exemption.

## **POLITICAL AD RECORD KEEPING**

Broadcast stations, cable system operators, and satellite television and radio providers are required to maintain public inspection files, of which political files are a part. Political files contain, among other things:

- Information about requests for the purchase of broadcast time by or on behalf of legally qualified candidates
- Information about requests for the purchase of broadcast time by issue advertisers whose ads communicate a message relating to any political matter of national importance
- Information about free time given to legally qualified candidates for public office

These files must be posted within 1 business day from when the candidate has made the request to the station. Political files are available for public inspection in an online database hosted by the FCC. The public may access the political files of any broadcast station, cable system operator, DBS provider or SDARS licensee at: <https://publicfiles.fcc.gov>.