

WRIR Regulations for Broadcasting/FCC

The following FCC regulations, which have been approved by the VCPP Board of Directors of WRIR, are in effect for all on air personnel. Please read the following information because you will be responsible for it. Understanding and adhering to these regulations will help protect you and the station from fines or suspension of license. You can email the FCC Committee of WRIR (fcc@wrir.net) with any questions you have regarding these regulations.

The FCC is made aware of possible violations through complaints. Complaints may be filed by anyone who claims to listen to the station, including other commercial or non-commercial stations in the market, concerned listeners, disgruntled volunteers or staff, underwriters or competitors of station sponsors.

Countless volunteers have given their time, energy and money over the past few years to establish and maintain a wonderful community radio station in Richmond. One FCC complaint against the station could result in fines, legal fees and the possible loss of our license, additionally, the contributions and hard work of so many people could be lost.

FCC violations typically carry fines of \$2000 to \$10,000 per violation both for the program host and for the station. In extreme cases up to two years imprisonment are also possible.

This section will discuss FCC rules and WRIR policy regarding:

1. OBSCENITY
2. INDECENCY AND PROFANITY
3. LIBEL AND DEFAMATION
4. POLITICAL OPINIONS
5. UNDERWRITING AND PSAs
6. CALLS TO ACTION
7. DRUG RELATED LYRICS
8. PAYOLA AND PLUGOLA
9. STATION ID
10. PUBLIC FILES
11. FCC QUIZ

The FCC regulations apply to ALL ON AIR PERSONNEL, THEIR GUESTS, CALLERS AND PERFORMERS:

1. OBSCENITY - graphic or explicit depictions of sexual acts; pornography

IT IS A VIOLATION OF FEDERAL LAW TO AIR OBSCENE PROGRAMING AT ANY TIME. The Supreme Court holds that obscene material is not protected by the First Amendment to the Constitution and cannot be broadcast at any time. For material to be considered obscene, the Court has determined that three elements must be present:

1. an average person applying contemporary community standards would find that the material taken as a whole appeals to the prurient interest (unwholesome sexual interest)
2. the material depicts or describes in a patently offensive way, sexual conduct specifically defined by applicable laws
3. the material taken as a whole lacks serious literary, artistic, political or scientific value

"Patently offensive" is a national standard based on what the FCC, at any given time, feels will offend the average listener. Included in this category would be dirty jokes or puns, sexual innuendo or double entendre with unmistakable sexual or excretory meaning.

Supreme Court Justice Potter Stuart said of pornography, "I know it when I see it." If you know it when you hear it, don't play it or say it.

2. INDECENCY, PROFANITY - language that describes, in context, in terms patently offensive as measured by contemporary community standards for the broadcast medium, sexual or excretory activities and organs.

IT IS A VIOLATION OF FEDERAL LAW TO AIR INDECENT PROGRAMING OR PROFANE LANGUAGE BETWEEN THE HOURS OF 6 AM AND 10 PM. The Court holds that indecent or profane material is protected by the First Amendment and cannot be banned entirely but may be restricted. The hours between 10 pm and 6 am are known as the "safe harbor" period in which "restricted" material may be aired.

Three factors are considered in determining whether material is indecent.

The first factor is the explicitness or graphic nature of the material. The issue is whether, in context, the material depicts or describes sexual or excretory organs or activities. Because the meaning of works or images is not always clear and because the definition of indecency encompasses innuendo and double entendre, the FCC first seeks to determine whether the material has an unmistakably sexual or excretory meaning.

The second factor is whether the material dwells on or repeats sexual or excretory matters at length.

The third factor is whether the material panders or titillates or is used for shock value.

It is not necessary that the material satisfy all three factors, any one of these factors could result in fines. "In context" has been vaguely described and is often challenged in court. Other elements considered in evaluating guilt or assessing fines are the manner in which the material is presented, its merit and whether or not the material is isolated or fleeting.

Profanity is defined by the FCC as including language so grossly offensive to members of the public, who actually hear it, as to amount to a nuisance.

Two statutory provisions are relevant to the broadcast of obscene, indecent or profane language: "Whoever utters any obscene, indecent or profane language by means of radio communications shall be fined not more than \$10,000 or imprisoned not more than two years or both."

"Nothing in this [Communications] Act shall be understood or construed to give the Commission (FCC) the power of censorship over the radio communications or signals transmitted by any radio station and no regulation or condition shall be promulgated or fixed by the Commission which shall interfere with the right of free speech by means of radio communication"

| WRIR RULE: NO SWEARING.

Everybody knows what swear words are. Don't use them on the air. Do not play music or air any programing containing swear words from 5am until 11pm. There is also no cursing, cussing, hexing or vexing for that matter.

While FCC regulations allow the broadcast of indecent material from 10pm until 6am, WRIR does not want to risk offending our listeners. For this reason we have restricted the broadcast of this material until the 11pm to 5am time period. Please note that this does not give DJs a blank check to air obscenities during late night broadcasts.

Consider whether or not profanities or indecent material will enhance the quality of your program and the educational mission of WRIR.

3. LIBEL / DEFAMATION - An untruthful statement about a person or organization, published in writing or through the broadcast media, that injures the person's reputation or standing in the community is libel, a form of defamation.

Although the FCC does not regulate defamation, the injured person or organization can bring a lawsuit not only against the individual who made the false statement but the station as well.

(On air personnel should be aware that at least one court has held that a station's failure to use its delay system rendered it liable for the remarks of an anonymous caller about a public figure. The court found that failure to use the delay system met the "actual malice" standard because it amounted to an open invitation to use a broadcast station to defame others.)

All on air personnel are expected to conduct themselves in a manner that reflects the ideals of community radio: fostering an environment of diversity, respect and tolerance both on the air and in the studios.

Subsequently, you may not use your show to air personal grievances or attacks upon the character, integrity, honesty, or personal qualities of an individual or identified group. You must refrain from using offensive language or making off color jokes or commentary at the expense of any individual, group or organization.

You may not make disparaging remarks on the air about other volunteers, staff, board members, PSAs, underwriting, program content, station policy or any other broadcast station or business. If you have problems with station policy or personnel you are invited to see the Volunteer Coordinator or a VCPP board member to seek a solution.

BE NICE WHEN YOU'RE ON THE AIR.

4. POLITICAL OPINIONS

"No non-commercial educational broadcasting station (WRIR) may endorse or oppose any candidate for political office" [Section 399, Communications Act]

The VCPP Board of Directors and the FCC committee of WRIR agree that all on air personnel represent WRIR while broadcasting and therefore may not endorse or oppose any pending legislation or candidates for political office while on the air and must refrain from making statements that suggest that the station endorses or opposes any candidate or legislation.

It is important to note that non-commercial stations are expected to remain neutral in matters of politics.

Political rules for news programs are more involved and specific questions can be addressed to the News and Public Affairs Committee or the FCC Committee at fcc@wrir.net.

5. UNDERWRITING / PSAs

Program hosts should be careful when reading underwriting announcements or Public Service Announcements. Read only what is written in the text and avoid making any comments about the announcement or the underwriter. Adding personal endorsements such as "I shop at that store and the service is great" or "they have really good burgers" are considered promotional statements even if they do not appear in the text. Although though they may come from the heart, such statements are FCC violations.

The FCC is inclined to see promotional statements as an attempt to cultivate the underwriter's good will and attract additional contributions. For this reason on air hosts should not discuss the services, facilities or products of our underwriters at any time. Again, read only what is in the text and only at the scheduled times.

While it is permissible to mention upcoming events or shows in a calendar context, it is recommended that you do so sparingly. More than two mentions of an upcoming event during any program could be considered promotion.

If you've just played their song and you know they're in town or you have them in the studio with you for example, you can say "You just heard the Red Flames here on WRIR and they'll be appearing at the Ice House this Saturday night at 10pm. More information is available on their website.... or by calling..." This is considered a simple, neutral statement of fact and no promotional language is used.

6. "CALLS TO ACTION" - a word or phrase that commands the listener to do something or take some direct action often leading to a purchase.

Some examples are:

"you should definitely go see this show"

"check out their website"

"give them a call"

"stop by today"

As a DJ you are more likely to make a call to action than to blurt out an obscenity. It is only natural to encourage your listeners to support a band or to patronize an underwriter whose services or products you might be familiar with but statements like those mentioned above are FCC violations.

7. DRUG RELATED LYRICS

While there is no outright ban on the broadcast of drug lyrics, a station could jeopardize its license by failing to exercise reasonable discretion in this area.

The FCC has said that the "...selection of recordings is a matter for the licensee's (WRIR's) judgment. Licensees could reasonably and understandably reach differing judgments as to whether a particular recording promotes drug usage. Such an evaluation process is one solely for the licensee. ...At renewal time, the FCC's function is solely limited to a review of whether a licensee's programming efforts, on an overall basis, have been in the public interest.

| Bottom line: No outright ban. Use discretion.

8. PAYOLA / PLUGOLA

Payola is a term coined in the early '60s when congressional investigations revealed that radio station personnel were accepting under-the-table payments from record companies in exchange for playing songs. Payola has come to mean the broadcast of material for which a station, its employees, producers or program suppliers have received or are promised consideration (money, gifts, services) without disclosing that the consideration was paid or promised.

FCC rules require the identification of those who pay or promise to pay anything in exchange for the broadcast of any material.

FCC regulations also prohibit a related practice known as "plugola" which refers to the on air promotion of goods or services in which a person with programming responsibility has a financial interest. The standard situation is one in which a programmer promotes a club, music store or concert in which the programmer has an undisclosed financial interest. To avoid violation of the payola/plugola rules:

Do not accept money, gifts, services, free tickets or anything of value from any person, group, organization or business including independent music promoters for the broadcast of any material. Inform station management if you are made any such offers.

Do not use air time to promote any outside business, event or economic activity. Do not promote or organize any event that represents or may be construed to represent the station without the authorization of the VCPP Board of Directors.

9. STATION ID

The legal station ID which must be given at the top of every hour is:

"WRIR-LP, 97.3 FM, Richmond"

You must announce this on air between 2 minutes before the hour and 2 minutes after the hour.

Bottom line: "WRIR-LP, 97.3 FM, Richmond" must be said at the top of every hour (between 2 minutes before and 2 minutes after)

10. Public Inspection Files

WRIR's Public Inspection files are exactly that; files open to the public for inspection. The files are located in the broadcast studio on the shelf near the turntables. Inside the white binder is a key to the network/transmitter room that is located just outside the music office. The files can be inspected by anyone during normal business hours and by the FCC at anytime during operating hours. Only the FCC can be escorted to the network/transmitter room so that they can conduct equipment tests.

11. FCC QUIZ

Go to this link:

<https://wrir.wufoo.com/forms/fcc-quiz-wrirlp-973-fm/>

Now that you have read the WRIR's policies regarding the FCC, let's see if you understand it. Go to the web site above and take this quiz. Your answers are submitted to the FCC Committee. If you get a satisfactory score then you will be eligible to volunteer. The FCC Committee will contact you to tell you the next steps for volunteering. If you do not have online access and need a hardcopy of the quiz, please email the Volunteer Coordinator at volunteer@wrir.org.

You can email the FCC Committee of WRIR (fcc@wrir.net) with any questions you have regarding these regulations. As issues arise, the FCC committee will notify volunteers of any changes to the FCC regulations. It is your responsibility to read all emails from the FCC committee or VCPP Board and follow them exactly as directed.