

STANDARDS AND PRACTICES FOR DISCUSSION OF PUBLIC AFFAIRS ON KHSU

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INTRODUCTION

This document is intended to guide KHSU programmers (paid and volunteer) who discuss public affairs during programs they broadcast. This definition is deliberately broad, and includes news broadcasts, programs specifically designed to report or discuss matters of public interest, cultural programs which include content of public affairs significance, and music programs which include interviews or commentary about current events, local or non-local.

KHSU programmers who produce broadcasts that regularly discuss public affairs are expected to be familiar with and adhere to these standards and the underlying legal and regulatory provisions, ethical standards, principles of fairness, accuracy, and balance, attribution requirements and protection of intellectual property.

While producers of public affairs programs must pay special attention to the application of these standards, they apply to all KHSU programming.

LEGAL AND REGULATORY PROVISIONS

KHSU is subject to extensive content regulation by the federal government. The rules that apply to all non-commercial educational broadcast stations are augmented by rules which apply to stations (such as KHSU) which are supported directly or indirectly by federal funds. KHSU personnel are also subject to Humboldt State University regulations and to general station policies and procedures. Finally, local ordinances and state and federal civil and criminal law (such as libel law) apply to the station and to the individuals who are heard on KHSU.

KHSU staff members can review statutes, regulations, and policies pertinent to station operations at the KHSU business office in Wagner House.

This list of regulated or prohibited programming is not all-inclusive. Program producers are responsible for ensuring that their broadcasts meet all regulatory requirements whether listed in this statement or not. The station management should be contacted in any case where questions of compliance arise; their decisions are final. KHSU discipline and grievance procedures apply in the event of disputes.

Libel. To libel someone is to damage their reputation by broadcasting or publishing false statements about their activities or character. The elements of libel are: (1) *transmission*; the false statement was transmitted to a third party – for example, to listeners through a broadcast; (2) *harm*; broadcast of the statement harmed the person's reputation, subjected them to hatred or ridicule, caused them to be shunned, or reduced their source of income; (3) *identification*; the person whose reputation was harmed was clearly identified – note that this does not have to be by name, if a person's associates could reasonably figure out who was meant; and (4) *fault*; the programmer was negligent in broadcasting the false statement.

The fault standard is a critical part of libel law. It varies, depending on whether the aggrieved party is a private individual, or a public official or public figure. *Public officials* are defined as “government employees who have, or appear to the public to have, substantial responsibility for or control over the conduct of government affairs.” Elected representatives and government officers, judges, prosecutors, public defenders, school principals, university administrators, and (in most cases on record) police officers are all considered to be public officials.

Public figures are people who have a prominent role in determining the course of public events; their actions invite public interest, attention, and comment. A very few people are “all-purpose” public figures; their fame and reputation are such that anything they do is a matter of public interest. “Limited purpose” public figures have entered the public spotlight, but only within a well-defined context. Corporate figures, environmental activists, and leaders of community organizations are usually considered limited purpose public figures; they are treated like public officials in libel actions that are directly related to their public activities. In all other circumstances of their life, they are regarded as private individuals.

Groups of people, as well as individuals, can be libeled. Depending on the circumstances, the group and its members could be considered as public figures or as private individuals.

The standard of fault is higher for public officials and public figures than it is for private individuals. The courts have held that greater constitutional protection is appropriate when discussing public affairs or governmental conduct than when purely private matters are involved. KHSU’s *internal* standards, however, are uniform for anyone and everyone.

Broadcast of potentially libelous material on KHSU is strictly prohibited. Program producers are required to report to station management immediately if potentially libelous material airs, whether it originates with station staff (paid or volunteer), studio guests, telephone callers, or others. Recorded programs containing potentially libelous material must be reviewed and approved by station management prior to broadcast, without exception.

KHSU thanks and credits John D. Zelezny, author of “Communications Law: Liberties, Restraints, and the Modern Media” for material used in this section.

Personal Attacks. Personal attacks occur when someone attacks the honesty, character, integrity, or like personal qualities of an identified person or group. Specific FCC rules regarding personal attacks were vacated by a federal appellate court order in October, 2000, but this ruling did not change station policy. KHSU programmers are not permitted to make personal attacks. Program producers are responsible for notifying station management immediately if a personal attack occurs during the presentation of views on a controversial issue of public importance.

Editorials. KHSU is not permitted to endorse or oppose a legally qualified candidate for public office, directly or indirectly. The station is also prohibited from taking any position on a matter of public interest; this would be equivalent to publishing an unsigned editorial in a newspaper.

It must always be clear to listeners that opinions expressed by individuals appearing on KHSU reflect the views of the speaker, not the station. When necessary to eliminate any ambiguity on this point, programmers should use the standard disclaimer language found on a promo card in the on-air studio. Producers of recorded public affairs programs should include any required disclaimers in the recording and not rely on broadcast monitor/hosts to read the announcement.

Obscenity and Indecency.

Obscene speech is not protected by the First Amendment and cannot be broadcast at any time. To be obscene, material must have all three of the following characteristics:

- an average person, applying contemporary community standards, must find that the material as a whole appeals to the prurient interest;
- the material must depict or describe, in a patently offensive way, sexual conduct specifically defined by applicable law; and
- the material, taken as a whole, must lack serious literary, artistic, political, or scientific value.

Indecency is defined as language or material that, in context, depicts or describes, in terms patently offensive as measured by contemporary community standards for the broadcast medium, sexual or excretory organs or activities. Indecent material may only be broadcast on KHSU between 10:00 P.M. and 6:00 A.M. and then only when preceded by a warning. It is highly unlikely that public affairs programs will require the broadcast of indecent material. Station management must approve any such broadcast in advance.

Broadcasts of indecent material in cultural or music programming are outside the scope of this document.

Broadcast Hoaxes. FCC rules prohibit broadcasting false information concerning a crime or catastrophe when (1) the information is known to be false, (2) broadcasting the false information directly caused substantial public harm, and (3) it was foreseeable that broadcasting the false information would cause substantial public harm.

Telephone Conversation Broadcasts. Except in programs where live broadcast of telephone calls can reasonably be presumed, FCC regulations require that callers must be informed in advance that their conversation will be broadcast. Any party to a call that is recorded must be informed before recording begins, whether the call is intended for later broadcast or not. KHSU policy generally prohibits broadcast of telephone calls except for pre-arranged interviews; exceptions to this policy may be granted by the station management when appropriate.

Commercial speech. KHSU is licensed as a non-commercial educational FM broadcast station. It is essential that individual small business owners or employees or officers of a for-profit

corporation are not presented on the air in a manner which promotes their particular business entity. This does not prohibit an individual of this type from being a guest on a program. If the program is about a topic related to their business it is entirely appropriate to acknowledge the business as a method of identification. However, the purpose of the interview (or topic of the program) cannot be promotional in nature. There must be a non-promotional context for their appearance on KHSU.

KHSU prohibits discussion of prices for goods or services provided by an interview subject. This extends to ticket prices for events. The only exception is for fund-raising events sponsored by KHSU for the station's direct benefit.

FCC regulations and policies specify exacting standards when non-commercial stations acknowledge financial support by businesses. These acknowledgments are commonly known as "underwriting announcements." KHSU's development department is responsible for ensuring that underwriting announcements meet all applicable standards. Questions concerning this subject should be directed to KHSU's Director of Development.

Broadcasts by Political Candidates. The body of regulation that applies to broadcast appearances by legally-qualified political candidates is very complex. A "use" of KHSU by a political candidate includes any broadcast of a candidate's voice which is identified or identifiable by members of the public that occurs outside the context of a bona-fide news event. "Use" of KHSU's air by any candidate triggers an equal opportunity for access to a comparable amount of time, with a comparable audience reach, for all other candidates for that office.

With the exception of newscasts, very few locally produced KHSU programs meet the standards for exemption from this rule. Therefore, KHSU programmers (other than newscast producers) must not allow the voice of any political candidate to be broadcast during their program without specific advance approval from station management. Programmers must prepare a detailed plan for meeting KHSU's equal opportunity obligations to other candidates as part of their request for approval of the proposed broadcast.

KHSU's policy prohibiting unauthorized broadcasts by political candidates is comprehensive and includes "incidental" uses, such as candidates guest-hosting music programs and appearing on air during membership drives.

ETHICAL STANDARDS

The following discussion is largely excerpted from "Independence and Integrity: A Guidebook for Public Radio Journalism", written by Alan G. Stavitsky and published by National Public Radio.

Ethical decision-making involves reconciling the journalistic obligation to provide fair, accurate, and balanced reporting with the need to act morally and responsibly, and to minimize harm to people affected by what we broadcast. Numerous published codes of ethics exist which are relevant and appropriate to KHSU program producers. Of particular significance are those

adopted by Public Radio News Directors Incorporated (PRNDI) and the Society of Professional Journalists (SPJ). These codes of ethics are incorporated in this standard by reference and are available for review upon request. While ethics codes underscore the core values of journalism, they cannot by nature anticipate the idiosyncracies of day-to-day reporting or warn us about all the potential ethical dilemmas we may encounter. Consistent exercise of good judgement by all station staff members is vital to the station's well-being. KHSU program producers are expected to act with the utmost ethical responsibility in all phases of their work at the station. A pattern of unethical behavior as measured against the codes of ethics referred to above and the culture of responsibility and mutual respect KHSU has sought to develop will result in disciplinary action.

FAIRNESS, ACCURACY, AND BALANCE

Accuracy is the foundation of all responsible public affairs and news broadcasting. KHSU program producers are responsible for ensuring that statements made on their program which could reasonably be interpreted as reflecting the program's or the station's viewpoint are accurate. Program producers are also responsible for ensuring that statements broadcast by others (including program guests and news sources) that the producer knows to be inaccurate are challenged in a responsible manner.

The concept of *fairness* builds on the foundation of accuracy. The SPJ code of ethics defines fairness in terms of fair play; it reads in part, "Journalists at all times will show respect for the dignity, privacy, rights, and well-being of people encountered in the course of gathering and presenting the news."

KHSU's commitment to fairness extends to listeners as well as information sources. Quoting from Stavitsky's "Independence and Integrity: A Guidebook for Public Radio Journalism": "In addition to being fair to those we cover, we owe it to our listeners as well. Being fair to the listeners means recognizing their right to information that is as complete as possible, and taking responsibility for presenting information in a way that puts it in perspective."

Balance is often elusive in public affairs discussions, but that does not relieve KHSU programmers from the obligation to pursue it. Producers should scrutinize the subjects their programs cover in order to properly identify all significant points of view, then use their best efforts to ensure that those viewpoints are heard, ideally in proportion to their importance to the topic.

Serious violations of KHSU's standards of fairness, accuracy, and balance will subject a programmer to disciplinary action. A pattern of violations, even if minor, may also subject a programmer to disciplinary action. Program hosts and producers are jointly and severally responsible for ensuring fairness, accuracy, and balance on their programs.

ATTRIBUTION AND INTELLECTUAL PROPERTY RIGHTS

The creation and dissemination of intellectual property is one way of looking at the primary purpose of KHSU. As we hope others will respect our rights in the programming we create, we

must respect the intellectual property rights of others.

Sources of news and information. News and information collected and distributed by news gathering organizations (including wire services and radio networks) are copyrighted. Many Internet news services originate with such organizations, and the contents of the Internet messages are not licensed for broadcast use. KHSU programmers are not permitted to broadcast news reports obtained from these sources, even with attribution, unless written arrangements are made by the station in advance of broadcast. The station management must approve all such arrangements, whether or not compensation is required.

Use of information compiled by others, not subject to the above prohibition, is permitted only with attribution to the source, consistent with the standards of ethics referred to above.

News sources, particularly those distributed via the Internet, have proliferated in recent years. KHSU producers carry the responsibility of ensuring that all sources of news and information used on their program are responsible and trustworthy. Attribution is not a sufficient defense against inaccuracy.

Computer systems and software. The use of University-controlled computer systems and software is now an integral part of program production and broadcast at KHSU. Use of computer software at KHSU facilities, or in production of KHSU programs, in violation of the user license agreement (including non-trial use of shareware for which license fees are not paid) is prohibited. Installation of any application software on any KHSU computer system is prohibited without the specific permission of KHSU Engineering.

Use of any KHSU computer system (including network access) by program producers, hosts, or guests subjects the user to applicable Humboldt State University policies and regulations. These are maintained and published by Humboldt State University Information Technology Services; more information is available at their web site,
<http://www.humboldt.edu/~its/planning/policy/aup.shtml>

Program rights. Use of KHSU resources for personal gain runs counter to the purpose and mission of a public radio station and the substantial public investment that has been made in KHSU over time. Production and distribution of KHSU programs are regulated by intellectual property ownership policies established by the University and the HSU Foundation. Unless specific contractual arrangements between the University and a program producer state otherwise, the property rights associated with radio programs produced by paid and volunteer staff members using University resources for broadcast on KHSU remain with the University.

ASCERTAINMENT OF COMMUNITY ISSUES

KHSU is required by the FCC to prepare and make available for public inspection a list of programs that have provided the station's most significant treatment of community issues. The report is compiled at three month intervals. KHSU depends on the collective efforts of its producers to ascertain the issues affecting the communities we serve, then produce programs that

address those issues.

Humboldt State University is the licensee of both KHSU-FM, Arcata, California, and KHSR-FM, Crescent City, California. The stations carry identical programming and identical public service obligations. Programmers should take steps to ensure that our programming, when taken as a whole, is as responsive to community issues in Del Norte County as it is in Humboldt County. Of course, many if not most community issues are significant to residents throughout the combined service area of KHSU and KHSR.

A standard form is provided for producers to report the content of public affairs programs, commonly referred to as the "ascertainment form". In order for the station to comply with the FCC's reporting requirements, the program producer must ensure that the form is filled out at the time each public affairs program is completed. Required information includes the subjects discussed, the names and organizational affiliations of the participants, the date of broadcast, and the duration of the program or program segment. This form was last revised in 2005. Programmers may access the form from the KHSU web site by typing in the following URL or clicking on Ascertainment Form link which is located on the left bottom corner of the KHSU web site Home Page. This is the only acceptable form for Ascertainments.

No single KHSU program is expected to comprehensively address every issue that is significant to the communities in our service area, but every program that discusses public affairs is expected to contribute to our collective body of work. The limits of station resources and air time mandate that public affairs programs unable to demonstrate that they effectively address significant community issues must give way to program proposals which the station management believes will provide superior audience service.

Please make every effort to follow all the guidelines contained in this document.