

UPDATE June 10, 2026

Election Season is Here → Do You Know Your Key Political Advertising Requirements?

With the spring election season in full gear and the fall election season approaching, MVPDs should take the time now to review their political advertising requirements. Federal law and FCC regulations govern the rates and terms for candidate advertising.

Importantly, MVPDs must maintain a political advertising file of all candidate requests for time and the disposition of those requests, **even if the advertising insertion is done by a 3rd party**. Any records maintained in the file must be kept for two years. Other key provisions include:

- MVPDs are not obligated to provide a political candidate access. However, if a MVPD permits “use” of its system by a legally qualified candidate, it must afford “equal opportunities to all other candidates for that office.”
- Candidate appearances on a bona fide newscast, bona fide news interview, bona fide news documentary (if the appearance of the candidate is incidental to the subject of the documentary), or on-the-spot coverage of bona fide news events (including political conventions) do not trigger the equal opportunity requirements.
- For candidate advertising – except for periods before a primary, general, or special election – the MVPD shall charge no more than the rates for comparable use of the system by commercial advertisers. Discounts and other terms offered to commercial advertisers must be disclosed and offered to political advertisers.
- During the 45 days before a primary, and the 60 days before a general or special election, the MVPD may charge legally qualified candidates for public office no more than the “lowest unit charge” for advertising time. The “lowest unit charge” is the amount that the system charges “its most favored commercial advertisers for the same classes and amounts of time for the same periods.” In calculating the lowest unit charge, MVPDs must take into account any practices offered to commercial advertisers that enhance the value of advertising spots, such as bonus spots, time-sensitive make goods, and preemption priorities.

If you have questions about political advertising, please contact Scott Friedman at (608) 469-3596 or sfriedman@cinnamonmueller.com.

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