



Obscenity/Indecency Policy

This document explains the structure of the radio station and provides working definitions of both obscenity and indecency. It has been in effect at WXUT since 1994.

The FCC recognizes a “safe harbor” from 6:00 a.m. to 10:00 p.m. No “indecent” material may be presented during these hours.

However, after 10:00 p.m., the FCC does allow stations to air indecent material.

WXUT’S policy IS AND HAS ALWAYS BEEN – NO OBSCENE AND/OR INDECENT MATERIAL AT ANY TIME, even between 10:00 p.m. and 6:00 a.m.

The last page of the policy is where the student signs indicating his/her understand of, and commitment to abide by this policy. That last page is kept on file.

Here is the policy:

WXUT OBSCENITY/INDECENCY POLICY

FOR ALL PROGRAMMERS AND OPERATORS

The issue of obscenity and indecency is very real and very serious for broadcasters and broadcast stations. The consequences of violating FCC and station policies are real and serious. It is your responsibility to fully understand and comply with the material in this document.

WXUT Policy

The FCC has fined television networks, and local television and radio stations. Commercial radio stations and non-commercial (mainly college) stations have been heavily fined for violations. No one is immune from scrutiny.

The reality is that we all must carefully monitor what we say and play. **WHEN IN DOUBT, DON'T.**

The University of Toledo is granted a license by the Federal Communications Commission to broadcast on 88.3 FM. The University does not own the frequency. Our license allows us to broadcast on the frequency as long as we follow established rules and regulations set forth by the FCC—the government agency which has the job of regulating the public airwaves.

WXUT's license is issued in the name of the University of Toledo Board of Trustees. They are ultimately responsible for what goes over the airwaves. In allowing you to broadcast over our frequency we place a great deal of trust in you. Therefore, it is vitally important that we educate all of you on obscenity/indecency issues and mandate your compliance in order to protect this valuable opportunity for University of Toledo students as well as our listeners in the community.

The FCC takes it's responsibility in this area very seriously and enforcement is at record levels. Broadcast stations deal with thousands of pages of rules and regulations to stay within legal parameters defined by the FCC. Most of those rules deal with technical issues, but others are concerned with the content of the broadcasts.

Based on the legalities and history cited in this document and on recent actions by the FCC, Congress, and the Supreme Court, the WXUT policy is as follows:

1. No announcer, programmer, or their guests may use or play music or other material containing obscene language or indecent language (as defined below), for any reason under any circumstances at any time. Violations of this provision will result in immediate and permanent suspension from the staff.
2. Staff members are responsible for their guests, should be approved **AHEAD OF TIME** by the Program Director or Station Manger. Violations of this provision will result in immediate suspension from the staff. **Again, this applies to language from either on-air talent or musical selections.** If there is the slightest doubt as to the guest's ability to conduct themselves in a professional manner, they should either not be permitted on the air at all, or their interview must be recorded and edited as appropriate.

3. All call-in shows or live shows with guests must be operated using the seven-second delay. Station members must be proficient in the operation of the delay mechanism prior to the show.
4. The WXUT management board requires compliance with the obscenity/indecent policy. Responsibility for the administration and enforcement of this policy is delegated to the management board.

If you have questions about material for your program, or doubts about the possible “obscene” or “indecent” nature of any material, seek advice from the program director, or station manager, PRIOR TO broadcast.

Definitions

Obscenity: The “Miller Test” is a three-part definition of obscenity, and material must meet all three criteria for it to be subject to this restriction. According to the Supreme Court (1973):

1. An average person, applying contemporary local standards, finds that the work, taken as a whole, appeals to prurient interests.
2. The work depicts in a patently offensive way sexual conduct specifically defined by applicable state law; and
3. The work in question lacks serious literary, artistic, political, or scientific value.

Unfortunately, the FCC tends to be rather non-specific with regard to exactly what is indecent, so we are forced to adhere to somewhat generic definitions. The FCC, under chair Kevin Martin, has made indecency a priority. Virtually all of the recent FCC actions have surrounded broadcastst regarded as “indecent.”

Obscenity is defined as material that appeals to the prurient interest (that is, arouses lewd and lascivious thoughts and desires), is patently offensive as measured by contemporary community standards, and lacks serious literary, artistic, political, or scientific value. Unlike indecency, **obscene material** lacks constitutional protection under the First Amendment and **is banned on broadcast stations at all times**. In fact, broadcast of obscene material not only violates FCC rules and regulations, but is typically also a state or local criminal offense. Section 1464 of the U.S. Criminal Code states that “Whoever utters any obscene, indecent or profane language by means of radio communication shall be fined not more than \$10,000 or imprisoned for not more than two years or both.”

Indecent material depicts or describes sexual or excretory activities or organs in a patently (obviously) offensive manner as measured by contemporary community standards for the broadcast medium. (By the way—”contemporary community standards” are defined by the FCC). If programming is indecent, it is not completely prohibited by law. However, it must be channeled to time periods when unsupervised children are not likely to be in the audience.

The major contrasts between indecency and obscenity are:

- indecency may be in a context that does not appeal to the prurient interest—comedy, satire, etc.
- indecency may involve material that has serious literary, artistic, political or scientific value.

Remember—if you can't say it, you can't play it. The FCC has ruled that indecent material also extends to lyrics which use objectionable language.

Areas of particular concern

The FCC appears more likely to find a radio broadcast indecent and take enforcement action (principally fines so far) in three contexts:

1. Shock radio—where air personalities such as Howard Stern deal with sexual and excretory matters in a supposedly humorous fashion.
2. Erotic Artistic Expression - especially in song lyrics or other artistic works dealing with sexual topics.
3. Fleeting and isolated utterances within the context of live programming, used to be tolerated to a large degree – recent incidents involving Bono and Janet Jackson have illustrated a much stricter level of enforcement.

Areas where the FCC has shown more tolerance

1. Occasional words dispersed throughout a widely recognized literary work, such as “Ulysses.”
2. Clinical/Instructional context—where the material is not presented in a pandering, humorous, or “vulgar” manner (programs on teen sex or some of the TV talk shows).
3. Legitimate news reporting—such as the John Gotti report on NPR’s “All Things Considered” which contained considerable profanity from Mr. Gotti.

**WXUT OBSCENITY/INDECENCY AND
OBJECTIONABLE LANGUAGE/MUSIC POLICIES
COMPLIANCE FORM**

I, _____, certify by my signature below, that I have read the WXUT Obscenity/Indecency Policy and the Objectionable Language policies in full.

I understand the policies and agree to abide by them at all times.

(Please print your name)

(Your signature)

(Please print name of witness)

(Signature of witness)

Today's date: _____

**PLEASE RETURN TO STATION MANAGER OR PROGRAM DIRECTOR
THANK YOU FOR YOUR COOPERATION!**



WXUT

Objectionable Language/Music Policy

There is language which is not necessarily indecent or obscene, but still offensive to certain groups of people.

The goal of any radio station is to attract and keep an audience. All personnel must be very thoughtful in selecting the words they say and the music they play. We must not intentionally offend, insult, or hurt members of our audience. Doing so reflects poorly on the radio station and the University.

Community members rightfully expect the University to uphold high standards and look to the University and each of its offices and organizations to maintain appropriate standards which respect the dignity of all.

Each of WXUT's members must have respect for the radio station, the University of Toledo, and our audience and use great discretion in what is said and played on the air.

In addition to indecent and obscene material, objectionable subject matter includes content which is considered insulting, prejudicial, or offensive by contemporary community standards (e.g. comments or lyrics about racial or ethnic background, religion, national origin, sexual identity, or the physically- or mentally-challenged) and promoting or endorsing the irresponsible use of alcohol and illegal drugs.

Airing such objectionable content will not be tolerated and will result in appropriate sanctions up to, and including, dismissal.

Students must be aware that the license to operate WXUT is in the name of the University of Toledo Board of Trustees. The administrators, such as the President and Vice Presidents, are responsible for the operation of the University and its many colleges, offices, departments, and student organizations such as WXUT. The University provides WXUT's funding.

We all answer to a great many people on campus and off. This is a large responsibility which must be used carefully and thoughtfully.

