

WNET AND AFFILIATES
PRODUCTION GUIDELINES

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I. INTRO

a) Scope

- 1) All WNET and Affiliate (“WNET”) personnel, contractors, and agents involved in or supporting factual and documentary programming and reporting are responsible for compliance with these Guidelines.
- 2) This guide is not intended to cover every possible situation that may arise in connection with production. Please consult with your Executive Producer (“EP”) and/or the Legal department as specific questions arise.
- 3) When in doubt about how these Guidelines apply to a particular situation, or about any other legal or ethical issue, consult promptly with your EP and/or with Legal. These Guidelines contain a number of legal terms of art (e.g., “defamation,” “obscenity,” “fair use”); explanations and definitions have been provided below to help you spot issues in your content, but Legal should always be consulted for interpretation and application.

b) Other Applicable Policies

- 1) [PBS Editorial Standards and Policies](#): These policies apply to national programming. They codify PBS’s basic guiding editorial principles, which include: editorial integrity, quality, diversity, and local programming autonomy. If you do not know whether this document applies to your position or program, consult your EP.
- 2) WNET employees are also expected to review internal Human Resources policy documents related to the topics contained in these Guidelines.

II. FAIRNESS AND RELATED CONCERNS

a) Conduct Fair, Balanced, and Objective Reporting

- 1) WNET strives always to present reporting that is fair and balanced. This means, to start, that investigation and reporting must be approached with a balanced and open mind, and that reporters must attempt to recognize personal bias and remove it from stories.
- 2) WNET seeks to maintain diversity in both sources and story lines. Reporting should cover a wide variety of topics and perspectives.

b) Outside Producers or Correspondents Must Maintain WNET Standards

- 1) Freelancers and contractors will be held to the same standards as WNET staff. Any freelancer who lacks access to internal WNET policies and desires clarification regarding their applicability to production duties should freely consult with their supervising EP for further information or interpretation.

c) Avoid Defamation

- 1) Generally, defamation consists of publication of a false statement that harms the reputation of an individual or identifiable group.
- 2) For a court to find a statement defamatory, it must:
 - Be a statement of fact (rather than an opinion);
 - Be false;
 - Harm the plaintiff’s reputation and cause injury;

- Be about the plaintiff, meaning that those seeing or hearing it would specifically identify it with the plaintiff; and
 - Be published by the defendant to third parties.
- 3) Truth is a complete defense to defamation.
 - 4) However, truth is not a defense to claims other than defamation; publishing or broadcasting intimate or private facts about an individual, for example, may constitute an invasion of privacy.
 - 5) While a statement must be factual to constitute defamation, not all non-factual speech is protected; opinions must be based on a strong knowledge about the subject in question and on true facts that are disclosed in the same broadcast or piece.
 - 6) Remember that potentially defamatory statements can be created by inference – e.g., juxtaposition of voiceover track with b-roll depicting an individual may create a false impression about that individual.

d) Respect and Maintain Taste Levels

- 1) *The FCC Prohibits Broadcast of Obscene Content and Limits Indecent and Profane Content*
 - i) Federal laws enforced by the FCC prohibit broadcast of “obscene” content, and embargoes “indecent” content at certain times.
 - ii) “Obscene” material, generally, is content that shows sexual conduct in an offensive manner, and that an average member of the viewing community would find appealing to “the prurient interest” and lacking in serious literary, artistic, political, or scientific value.
 - iii) “Indecent” material shows sexual or excretory conduct or organs in a manner that an average member of the viewing community would find offensive, but does not rise to the level of obscenity. Indecent content cannot be broadcast between 6 AM and 10 PM, when children may be in the audience. Profanity, including “language so grossly offensive to members of the public who actually hear it as to amount to a nuisance” is also prohibited during these hours.
- 2) *WNET Maintains Its Own Taste Standards In Both Broadcast and Other Content*
 - i) In addition to observing federal laws and regulations, WNET may apply its own taste considerations, and PBS’s Editorial Standards may govern content included in national programs.
 - ii) The FCC only regulates broadcast content, but WNET standards should be implemented in all content and all media – including both written materials and video distributed online.
 - iii) Taste is subjective, but any content that includes sensitive materials or subject matter, including violence, racial epithets, strong language, or nudity (filmed directly or in art), should be flagged to your EP and to Legal. Controversial material must be presented in context, and should advance understanding of the story in which it is included; it may not be used for shock value, and gratuitous elements or details should be omitted.

III. FUNDING AND FINANCE

a) Editorial Control Must Be Kept Free of Funder Influence or Appearance Thereof

- 1) Editorial control of content belongs solely to the producers; even the perception that program funders might have influenced content is impermissible. *See* PBS Editorial Standards and Policies.
- 2) Underwriters and funders may not exercise any type of editorial review or control (e.g., review of scripts or editing room visits). While producers and funders may engage in general conversations regarding a program's subject, nature, and scope, these should happen prior to active development or editing of the program to preserve actual and apparent editorial integrity. *See* PBS Editorial Standards and Policies.

b) Outside Contributions Should Not Influence Programming

- 1) Programming must be produced without any exchange of promises with outside entities or any consideration in return for promotion benefits or exposure – or the appearance thereof.
 - i) Never promise to air content in consideration for acquiring programming.
 - ii) Federal law prohibits station officials, employees, or any other persons (including production personnel and program licensors or suppliers) from paying or receiving money, services, or other valuable consideration for the broadcast of any material over the station.
 - iii) Product placement is prohibited (that is, the appearance in a program of an underwriter's product or service, in a way that features or draws attention to such product or service). In addition, content that could create a reasonable perception of product placement should be avoided.
- 2) Requirements of a program itself, absent third party consideration or concerns, must dictate selection of music and other creative elements – including persons chosen to participate, use of scenic properties, and identification of commercial products or services and their trade names or slogans.

c) Gifts, Favors, and Travel May Not Be Accepted

- 1) Do not accept gifts or favors (other than tokens of nominal value) that could have the appearance of influencing news judgment or perspective.
 - i) Acceptance of any amount of cash or equivalents is strictly prohibited. As a general rule, each person must pay his or her own way and be beholden to no one.
 - ii) Avoid honoraria or gifts from groups that have an interest in how the subject of a program is treated.
- 2) Do not accept travel, lodging, or other expense coverage when working on a story.
 - i) Example: If a story requires travel on a private plane owned by a corporation, the corporation should be reimbursed at a commercial aviation rate.
- 3) Do not accept free or discounted merchandise, if such merchandise is not made available on the same terms to the general public or through a company-wide plan.

d) Special Restrictions May Apply To Foreign Governments and Officials

- 1) The United States Foreign Corrupt Practices Act (FCPA) prohibits the offer, payment, promise to pay or authorization to pay anything of value to a foreign government official (directly or indirectly, or through any third party) in order to influence an action or to cause a violation of duty or conflict of interest on the part of the official.
- 2) Ordinary and reasonable gifts and business entertainment may be permitted, as long as they are provided for in the approved budget.
 - i) Gifts to or business entertainment of a foreign government official are permitted when provided as a courtesy, token of esteem, or expression of gratitude and not as a quid pro quo.
 - ii) Gifts and business entertainment must be unequivocally ordinary, customary, and reasonable in the local setting, must be permitted under local law, and must be of nominal value (\$50 or under). Seek EP approval for any gift over \$50. Cash gifts are prohibited.
- 3) Discuss any situations that might implicate the FCPA with Legal and your EP. Breach of this section's procedures may result in disciplinary action up to and including termination of employment. In addition, violation of the FCPA may result in civil or criminal penalties including large fines and imprisonment for up to 5 years. Even if no charges are brought, FCPA charges or government investigation can be highly disruptive and can damage WNET's reputation as well as that of any individual implicated.

IV. RESEARCH AND PRE-PRODUCTION

a) Identify and Avoid Conflicts of Interest in Reporting

- 1) Reporting on PBS, WNET, and related entities must be objective; any conflict of interest must be disclosed in programming.
- 2) When a program features an individual with a formal relationship to WNET (such as a Trustee), the individual's relationship to WNET may need to be disclosed in the program. Discuss with Legal and your EP.
- 3) Make your EP aware of any interest in or connection you may have to a story, or in any subject covered or included (e.g., financial, personal, or political interest). Any such connection must be carefully considered in advance and, if production proceeds, must be monitored by disinterested parties to ensure fair reporting.
- 4) WNET employees involved in newsgathering may not lobby for, endorse, or contribute to political candidates. *See* the WNET Employee Code of Conduct, Section C (note that certain provisions of Section C.2 regarding "Political Activity" apply particularly to personnel involved in newsgathering).

b) Third Party Materials Must Be Cleared

- 1) All third party materials must be cleared with respect to intellectual property and other proprietary rights (e.g., privacy). The default rule is that a license or release must be in place for all non-original materials used, and that proper credit must be given to the author of those materials.

- 2) Do not plagiarize. If you rely on or quote a third party publication it must be properly credited. In certain circumstances it may be appropriate to offer payment to author(s), especially when a larger portion of a work is being quoted or displayed.
- 3) “Fair use” of third party content must always be cleared with Legal. Consult with your attorney as early as possible if you anticipate you may want to make fair use of third party materials. To even begin considering fair use, materials must be essential to your narrative, and you must be using the smallest amount needed to make your point.
- 4) Do not accept or use video news releases (“VNRs”) or other native advertising content.

c) No Risky Investigative Techniques or Sources Without Permission

- 1) Do not use anonymous or confidential sources, or promise any source anonymity or confidentiality, without EP permission.
- 2) Do not use hidden cameras, eavesdropping, ambush interviews, tests/demonstrations, or other high-risk investigation techniques without EP permission.
- 3) All assignments that present risk of physical harm, property damage, or other danger are voluntary – notwithstanding, all such assignments should be discussed in advance with your EP and Legal.

d) “Open-Source Intelligence”/Crowd-Sourced Reporting

- 1) Any evidence gathered from or by open-source reporting should be independently verified and use of supporting experts should be considered.
 - i) Look at provenance – the source, date, and location for every piece of social media data, and check if the video or image is original.
- 2) Attribute and qualify analysis properly if it has not been independently verified by WNET.

V. FILMING AND REPORTING

a) Maintain Accuracy and Openness in Filming and Reporting

- 1) Any staging should accurately represent real events; subjects should be filmed in the ordinary conduct of daily activities and not guided in their actions.
 - i) Reenactments must be approved in advance by the applicable EP. If used in news programming, a re-enactment must be clearly labeled as such.
- 2) Subjects’ identities should not be concealed or misrepresented (*see* Section IV(c) above, regarding anonymity of sources).
- 3) Do not agree to or place conditions, restrictions, or limitations on interviews, or offer such to sources.
- 4) Tips, rumors, and statements by participants or observers during an ongoing event (including dangerous assignments like rioting, disasters, and tragedies) should not be broadcast until such information has been authoritatively confirmed.
- 5) Editorial commentary is subject to the same high standard of factual accuracy as news reporting.
 - i) Note: Federal law strictly prohibits WNET from expressing any support for or opposition to any political candidate.

b) Respect Privacy and Secure Proper Permissions

- 1) Respect privacy and do not trespass (i.e., enter another's property without permission).
- 2) Written releases should be obtained from individuals identified and shown in a piece.
- 3) The requirement of a release may be waived for adults whose are shown in news programming, as long as those individuals are definitely made aware that they are being filmed by WNET. However, when conducting news reporting or interviews on any topic that could reasonably be understood as sensitive or prejudicial (e.g., commission of crime, having a disease), discuss with Legal whether it may be appropriate to seek releases from individuals depicted.
- 4) Minors should not be shown or identified in any program (news or otherwise) unless a parent- or guardian-signed release has been obtained. In certain circumstances, which should be discussed in each case with Legal, written confirmation from a school or other organization that has parent/guardian releases on file may suffice.
- 5) In particular, do not broadcast the names of minors implicated in crimes.
- 6) Do not broadcast the names of victims of sexual assault, or facts or photos from which their identities could reasonably be inferred.

c) Guests, Experts, Advocates, and Candidates

- 1) Affiliations with individuals or groups who appear in our content should be transparent. Expenses for travel or for materials essential to the broadcast (e.g., photo prints) may be reimbursed but must be approved and reasonable and compliant with WNET policies.
- 2) *Experts*
 - i) WNET staff should independently check credentials and affiliations during story development and prior to broadcast. Consult with the EP regarding the appropriateness of labeling any individual an "expert" on air. Any material ideological or political biases should be made clear to the viewer.
- 3) *Advocates*
 - i) When broadcasting the views of an advocate or advocacy organization, care must be taken to present competing views on the issue at hand and to ensure that the program does not present or imply endorsement by WNET. Viewers should be notified of any involvement or interest, e.g., financial or legal stakes, that an advocate might have in the outcome of a story.
- 4) *Candidates*
 - i) Section 399 of the Communications Act prohibits public television stations from supporting or opposing any candidate for political office.
 - ii) Once a station permits a legally qualified candidate to "use" the station during any federal, state, or local race, the station must provide "equal opportunities" to any legally qualified opposing candidates who makes a request within one week of the first candidate's use. The opposing candidate will be entitled to an equivalent amount of time in a program that normally has an audience comparable to that of the program on which the first candidate appeared.

- a. Note: This requirement does not apply to a candidate's appearance during a bona fide newscast, news interview, live on-the-spot coverage of news events (including political conventions and candidate debates), or news documentary (if the appearance by the candidate is incidental to the presentation of the subject covered by the news documentary).
- b. Any candidate appearance that does not or may not fall clearly within these exceptions must be discussed in advance with Legal.
- c. Any request by a candidate for "equal time" based on another candidate's appearance on a WNET program or station must be forwarded immediately to Legal.

VI. EDITING AND POST-PRODUCTION

a) Maintain Accuracy in Editing

1) Interviews

- i) The integrity of an interview's substance, spirit, tone, and context should remain intact through editing.
- ii) It is permissible to edit an interview out of sequence as long as the clips' order in the final piece continues to reflect the context and substance of the interviewee's original commentary. Generally, an answer must immediately follow the question that elicited it. Cutting an answer down is only allowable if the content of the original is preserved and not substantively altered.
- iii) Reverse shots and reverse questions are permissible, subject to certain requirements:
 - a. The substance and tone of the reverse question must accurately reflect the original interview question.
 - b. The interviewer must not affect editorial content through tone, facial expression, or gestures (including head shakes or nodding).
 - c. Whenever possible, the interview subject should be present at the filming of reverse shots and questions.

2) Stills and Other Photo Materials

- i) Accuracy requires both authenticity and context considerations.
 - a. Ownership of any third party materials used must be verified and authenticated, and permission must be sought and granted from the copyright holder as necessary.
 - b. WNET may require a written warranty of authenticity and ownership as a prerequisite to use of third party materials.
 - c. Material should be contextualized in presentation.
 - i. Mark live materials as such and, if rebroadcasting something originally showed live, include a time stamp to avoid confusion.
 - ii. Do not present taped material in a manner that would confuse a viewer into believing the images are live.

- iii. If archival or file images are used, they should be labeled appropriately and displayed in a manner that makes their nature clear.
 - ii) Photographs should not be materially altered; the EP must approve all alterations and any approved alterations must be disclosed to the viewer. Alterations for which approval is needed may include adding, subtracting, or rearranging the elements in a photo.
 - iii) Use of directing techniques – such as camera moves, cropping, highlighting a portion of a photo, or computer layering – is permissible with stills. When in doubt, consult the EP.
- 3) *Music and Audio Effects*
- i) Use audio effects and music that are appropriate to the narrative line and do not distort the impression otherwise given by unaccompanied footage.
- 4) *Graphics and Special Effects*
- i) Graphics and effects within a story must meet the same journalistic standards as the story itself, and must never lead to deception or confusion.
 - ii) Technical aspects of an image may be improved (e.g., by highlighting or identifying its primary subject), provided that substantive editorial content is not altered.
 - iii) Include oral or visual disclosure of significant or substantive enhancements.
 - iv) If CGI use is being considered in a manner and context where a viewer might reasonably believe such digital images are filmed and not computer-generated, then that technique should be avoided. However, in certain historical programs, CGI may be used to recreate scenes or locations that do not exist today. The EP must approve any use of CGI or other digital effects, and such effects should be disclosed to the viewer.

b) No Third Party Pre-Broadcast Review

- 1) WNET does not allow advance review or approval of its reports or programs by third parties. With special approval, funders may be allowed to view programs at special events (e.g., film festivals) prior to broadcast; however, no actual or apparent editorial input from funders will be permitted in connection with such viewing opportunities.

c) Retain Notes and Outtakes Internally

- 1) Outtakes or other production materials cannot be released to anyone outside WNET without the express permission of the EP and Legal.
- 2) WNET strives to maintain complete, accurate, and high quality records; in some instances, laws, regulations, or grant agreements may require specific record-keeping procedures. Consult with your EP and with the WNET Record Retention Policy for further information.

VII. POST-BROADCAST

a) **Do Not Speak for WNET**

- 1) Employees should not make statements – in response to inquiries or otherwise – on behalf of WNET. Only the Senior Director of Communications is authorized to make or approve public statements pertaining to WNET or its operations. *See* the WNET Employee Code of Conduct.

b) **Monitor Complaints and Issue Corrections When Necessary**

- 1) WNET is committed to recognizing and correcting actual or possible errors or confusing statements. Bring any errors noticed by staff or mentioned in viewer correspondence to the attention of the EP and Legal promptly upon discovery.
- 2) Be prepared to respond to inquiries about programming from the PBS Ombudsman or others by, e.g., keeping complete records of substantiation and factual investigation.
- 3) When responding to complaints or inquiries, use the following protocols and do not provide any substantive response:
 - i) Mail or email – Forward to the EP.
 - ii) Phone call from a viewer – Listen politely and record the viewer’s comment and contact information. Refrain from challenging or agreeing with the viewer’s critique and do not issue an apology. Notify the viewer that you will bring his or her concern to the attention of the appropriate individual. Forward a written record of the phone call to the EP.
 - iii) Voice mail from a viewer – Record the viewer’s critique and contact information and forward a written record of the message to the EP. Do not delete the voice mail. If the voice mail is delivered to your email inbox, forward it to the EP

c) **Social Media**

- 1) Be mindful, when posting on personal social media accounts, of materials’ publicity and duration, and of any impact statements or materials might have on WNET or its other employees. *See* the WNET Employee Code of Conduct and Employee Handbook for additional information on standards applicable to personal use of social media, as well as official posts on WNET social media sites.
- 2) Those connected with newsgathering should refrain from expressing opinions on social media that would not be appropriate for them to express on-air (e.g., personal political opinions).