

January 31, 2022

BY EMAIL (AUDIOFILINGS@FCC.GOV)

Mr. Albert Shuldiner
Chief, Audio Division
Federal Communications Commission
45 L Street NE
Washington, DC 20554

Re: *WSIA(FM-ED), Facility ID Number 65557, Staten Island, New York
Request for Extension of License to Promote Equity and Fairness Under
Section 312(g)*

Dear Mr. Shuldiner:

The College of Staten Island (“College”), licensee of non-commercial educational FM radio station WSIA(FM-ED), Staten Island, New York, Facility ID 65557 (“WSIA” or “Station”), by its attorneys, respectfully requests that the Federal Communications Commission (“FCC” or “Commission”) determine, under the provisions of Section 312(g) of the Communications Act of 1934, as amended (“Section 312(g)”), that equity and fairness would be served by WSIA being allowed to retain its license despite the Station being silent for slightly more than one year while the College was restricting access to its campus during the COVID-19 pandemic.

As explained herein, the Station – a student-funded, student-operated Class D college radio station – was off-air for slightly more than twelve months, from approximately March 15, 2020 until March 29, 2021, due to College closures resulting from the COVID-19 pandemic.¹ Because its inability to resume broadcasts at an earlier date was due to circumstances beyond WSIA’s control – namely, a worldwide health pandemic – the Audio Division (“Division”) should exercise its authority under Section 312(g) to allow WSIA to continue to operate as it has for the last 40 years. A decision to permit the continued operation of WSIA promotes equity and fairness by ensuring that the Staten Island community has continued access to WSIA’s unique

¹ The Station had not been represented by counsel experienced in communications law matters until very recently when counsel was retained to assist with the filing of WSIA’s license renewal application. After communicating with counsel, the College understood the need to submit instant request for relief. A waiver of any rule required to preserve the Station’s operation, including but not limited to Section 73.561(d), is respectfully requested.

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and diverse programming, and that students are provided with tangible opportunities to develop real-world broadcast and leadership experiences to facilitate their careers. Moreover, such a decision is consistent with prior Division decisions as well as with the Public Notice issued by the Division at the start of the pandemic, in which the Division stated that periods when educational institutions limited access to their campuses qualified as recess periods during which college and university radio stations are not required to meet the minimum operating schedule set out under Section 73.561 of the Commission rules.²

I. Background

A. **WSIA has been serving Staten Island for over forty years with compelling programming, is an active member of the community, and serves as a training ground for students interested in broadcast careers**

WSIA is a student-funded, student-operated college radio station that has served Staten Island since August 31, 1981. The Station is dedicated to serving its listeners with unique and diverse programming and providing a platform for underrepresented artists. WSIA regularly entertains listeners with music and keeps its listeners informed through local news and public service announcements. In addition, the Station historically has offered one-of-a-kind local programming, such as *Tales & Toons for Tots*, a weekly children's radio program airing on Sunday mornings, *The Kabbalah Airwaves Show*, a three-hour weekly program hosted by a Rabbi Eliezer Garner, and the *Kol Isha Show*, a weekly program hosted by Michele Garner, the "Rockin' Rebbetzin", that focuses on Orthodox women musicians. And, for many years, WSIA served as the voice of the Staten Island Yankees.

Not only does the Station broadcast a wide swath of compelling content, it also is active in the Staten Island community, and takes pride in its role in publicizing and participating in community events. For example, WSIA has worked closely with the parks department on programming in support of the opening of Freshkills Park, a public park built on top of a former landfill. The Station also was significantly involved with the Greenbelt concert series, a series of outdoor concerts on Staten Island. And, it has hosted community events with the Staten Island Pride, participated in Relay for Life, and covered Groundhog Day at the Staten Island Zoo.

Importantly, as a college radio station, WSIA works tirelessly to train students in broadcasting, and to enable a safe place for students to develop leadership and other skills they need to succeed in their post-college careers. For example, the Station has implemented a multi-week training program for new student volunteers, including training modules on FCC rules and

² See, Audio Division Announces Procedures Related to Coronavirus, Public Notice, DA 20-266 (rel. March 13, 2020) ("*COVID-19 PN*"); In re Application of WDGC-FM, School District # 99 for Renewal of License, DA 21-1463 (rel. Nov. 22, 2021) (exercising discretionary authority under Section 312(g) to extend a station's authority due to the COVID-19 pandemic, notwithstanding that the station had been silent for more than twelve months).

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regulations and the day-to-day operations of a radio station. Many Station alum have gone on to careers in broadcasting, including some major media outlets.

B. The COVID-19 pandemic forced WSIA to cease operating so that the College could ensure the safety of its students and staff

Like the rest of the world, WSIA was significantly impacted by the COVID-19 pandemic. In early March 2020, as the coronavirus was making its way across the United States, the College experienced an outbreak on campus and was initially scheduled to close temporarily from March 15-16, 2020. The Station aired programming as usual on March 14, and expected to return to normal operations on March 17. This did not turn out to be the case, however, as the College – like so many others – announced that it would be closed to students indefinitely. Despite no longer having access to the studio and being unable to broadcast remotely,³ students who volunteer at the Station continued to do what they could to maintain contact with the community through social media while the College was closed to all but essential personnel.

While the College did not fully re-open to students until August 24, 2021, it slowly re-opened various components of its operations based on health and safety considerations. Under its COVID-19 procedures, the College permitted access to the Station starting on March 29, 2021. Due to restrictions on the number of people allowed on campus and in enclosed spaces, as well as the need to comply with strict cleaning and other COVID-19 protocols, access to the Station was limited to one student per day, Monday through Friday, during the hours from 9:00 AM through 5:00 PM. As a practical matter, due to student schedules, this led to the Station being able to broadcast for approximately 3-4 hours each weekday when it returned to the air on March 29. Since returning to in-person learning at the end of August, the College has increasingly permitted students to return to the studios and WSIA is now back on the air as robust as it was – if not more so – before the pandemic hit.

C. Since returning to the airwaves, WSIA has played a central role in keeping its listeners informed about the pandemic

From the time it returned to the air in late March, WSIA has been working to ensure that its listeners have access to news and information about the COVID-19 pandemic. Its broadcasts have included multiple public service announcements developed in conjunction with the health department to educate listeners about the importance of hand washing, the need to obtain vaccinations, and other pandemic-related health information. The Station also served as a key source of information for students updates about the College, including, for example, updates about when classes might resume in-person. And, of course, WSIA also worked to broadcast the

³ WSIA does not have remote broadcasting capabilities.

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same top-quality content it aired prior to the pandemic to the extent possible given COVID-19 related restrictions.

II. A finding that equity and fairness would be served by allowing WSIA to remain on-air is consistent with the Division's recognition that college radio stations could not broadcast during the pandemic, and will advance the public interest by ensuring that the Station can continue to serve its listeners

Section 312(g) provides that a broadcast station license expires as a matter of law if a station fails to transmit any signals for a consecutive twelve-month period.⁴ The Commission, however, has discretion to extend or reinstate a license for “any reason to promote equity and fairness.”⁵ Historically, the FCC has exercised this discretion where a station was unable to broadcast for twelve consecutive months for reasons beyond the licensee’s control.⁶ This is clearly the case here, where WSIA was forced to cease broadcasting due to school closures stemming from the COVID-19 pandemic, circumstances that the Division has recognized as warranting relief from the Commission’s rules governing noncommercial educational station operations. And, the Division has previously exercised its discretion to permit a station to remain off-air for more than twelve months due to COVID-19.⁷

As explained above, the Station was unable to broadcast beginning on March 15, 2020 (when the College closed to all but essential personal) through March 29, 2021 (when the College determined that it would be safe to provide students with limited access to WSIA’s studios, subject to compliance with strict COVID-19 restrictions and protocols). If it were not for COVID-19, WSIA would have been able to broadcast in the ordinary course throughout the entire period during which students were not permitted to be on campus for in-person learning. Certainly a worldwide pandemic constitutes a circumstance beyond WSIA’s control justifying a public interest finding under Section 312(g). This is particularly the case here, where the Station resumed operations just ten days after expiration of the twelve-month deadline set forth in Section 312(g).

Importantly, the Division has recognized that COVID-19 related closures support relief from Commission rules governing operations of college stations. Indeed, one day prior to WSIA’s last pre-pandemic broadcast, the Division released the *COVID-19 PN* explaining that COVID-19 related school closures would be classified as recess periods under Section 73.5619(a) of the FCC’s rules, such that college stations, like WSIA, would not be deemed in

⁴ 47 U.S.C. § 312(g).

⁵ 47 U.S.C. § 312(g).

⁶ See, e.g., Community Bible Church, Letter, DA 08-2308 (MB 2008); Mark Chapman, Court-Appointed Agent, Letter, 22 FCC Rcd 6578 (MB 2007).

⁷ See, In re Application of WDGC-FM, *supra* n. 2.

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violation of Commission rules for failing to broadcast during periods in which the college was closed.⁸ This action demonstrates that the inability to broadcast due to COVID-19 is not within a station's control.

In sum, the Division should grant the instant request and determine, under the provisions of Section 312(g), that equity and fairness requires that the Commission enable WSIA to stay on the air serving its listeners. Because WSIA was off-air for reasons outside of its control, this request falls within the scope of the Commission's stated parameters for granting relief under Section 312(g). Moreover and importantly, grant of the instant request is consistent with Division precedent and the Division's decision to treat COVID-related school closures as recess periods under Section 73.571 of the FCC's rules, and also advances the public interest. Indeed, absent favorable action on this request, WSIA would be required to remain off-air permanently, thereby depriving its listeners with access to the valuable programming and community services it provides, and removing an important source of training for broadcast careers from the market. Where, as here, WSIA resumed broadcasts to the maximum extent possible given COVID-related restrictions only a short period after the twelve-month deadline, waiver of Section 312(g) to permit the Station to remain on-air promotes equity and fairness, and the Station should be allowed to continue to serve the public.

Respectfully submitted,

David Oxenford
David Oxenford
Karen L. Milne
Wilkinson Barker Knauer, LLP
1800 M St., NW
Suite 800N
Washington, DC 20036
(202) 783-4141

cc: Ms. Victoria McCauley, Audio Division

Counsel for The College of Staten Island

⁸ See *supra* at n. 2.