

Received & Inspected

January 27th, 2015

MAR - 9 2015

FCC Mailroom

Request for Review

Appeal of Administrators Decision on Appeal
Diocese of St. Petersburg
CC Docket No. 02-6

DOCKET FILE COPY ORIGINAL

Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

Appellant Name:	Richard Senturia, consultant for applicant.
Applicant:	Diocese of St. Petersburg
FCC Registration Number:	0002050158
Billed Entity Number:	127794
Form 471 Application Number:	839861
Funding Request Number:	2278591

To whom it may concern,

Introduction

This is an appeal of USAC's denial of funding for Application Number 839861, FRN 2278591, Bright House Networks, LLC (SPIN: 143016611), dated December 30th, 2014.

USAC is seeking recovery of funds in the amount of \$3,960.00 that were allegedly improperly disbursed to the Diocese of St. Petersburg. The Billed Entity receiving service was purportedly not in compliance with the guidelines set forth by CIPA when the services began.

We appeal the judgment that there was a failure to comply. There are no grounds for requesting that the funding be reimbursed.

Argument

I. Compliance with Child Internet Protection Act (CIPA)

We have emphasized in previous correspondence that the internet access from Bright House, services solely the Diocese of St. Petersburg Administrative Office. This entity is a Non-Instructional Facility with no classrooms and no students. The office is not located in or near a school.

No. of Copies rec'd 0
List ABCDE

II. Diocese of St. Petersburg: School District (Office)

USAC requires that an entity file as either a school, school district or a consortium. USAC distinguishes between a school and a school district. USAC also distinguishes between a school district and the district office. This is evident, as USAC requires Non-Instructional Facilities to enter a separate BEN in Block 4, Form 471.

“Administrative offices that serve multiple schools may be located on the campus of an individual school. However, they are considered NIFs and should have their own entity numbers because they serve more than just the school on whose campus they are located (see above). NIFs can be on property owned by a school district or library, or they may simply be rented space in a building such as a town hall or a commercial building.”¹

We file for many Archdiocese / Diocese offices across the country. There is great variation among them in terms of spiritual roles and administrative responsibility. Hence, their authoritative function, between and amongst the schools and the office of the diocese operates unlike a traditional public school district.

Given the limited categories under which this particular entity must file, the Diocese of St. Petersburg Administrative Office, operating as Non-Instructional Facility and the Responsible Authority, files as a School District (Office.)

III. CIPA and “Authorities Responsible for Administration of the School”

A. Section 1721 (5)(A) of The Children’s Internet Protection Act (Pub. L. 106-554), Title XVII – Children’s Internet Protection, establishes the “Requirements” for the Schools and Libraries program.

It reads as follows:

(5) REQUIREMENTS FOR CERTAIN SCHOOLS WITH COMPUTERS HAVING INTERNET ACCESS.—

“(A) INTERNET SAFETY.—

“(i) IN GENERAL.—Except as provided in clause (ii), an *elementary or secondary school* (italics added) having computers with Internet access may not receive services at discount rates under paragraph (1)(B) unless the school, school board, local educational agency, or other authority with responsibility for administration of the school—

¹ “News Brief: **Non-instructional facilities**,” USAC Schools and Libraries, <http://www.universalservice.org/sl/tools/news-briefs/preview.aspx?id=510>, (October 11, 2013)

“(I) submits to the Commission the certifications described in subparagraphs (B) and (C);

“(II) submits to the Commission a certification that an Internet safety policy has been adopted and implemented for the school under subsection (I); and

“(III) ensures the use of such computers in accordance with the certifications.

“(ii) APPLICABILITY.--The prohibition in clause (i) shall not apply with respect to a school that receives services at discount rates under paragraph (1)(B) only for purposes other than the provision of Internet access, Internet service, or internal connections.

“(iii) PUBLIC NOTICE; HEARING.--An elementary or secondary school described in clause (i), or the school board, local educational agency, or other authority with responsibility for administration of the school, shall provide reasonable public notice and hold at least 1 public hearing or meeting to address the proposed Internet safety policy. In the case of an elementary or secondary school other than an elementary or secondary school as defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801), the notice and hearing required by this clause may be limited to those members of the public with a relationship to the school.

Comment: The title of this section makes clear the requirement for “Certain Schools”, specifically, the requirements for schools with internet access.

Further, it should be noted that the subsequent language clearly identifies “*elementary or secondary*” schools having internet access as the subject of the compliance. There is nothing in this language that indicates or even suggests school district offices (or diocese offices) as the subject of compliance.

Moreover, in (iii), the act allows that if the school does not hold the public meeting, the “school board, local educational agency, or other authority, responsible for the administration of the school” may hold the public hearing as agent for the school. The focus of compliance is the school, not the administering agency. The language does not indicate or suggest that the school board (or other administrative entities responsible for the school) is required to have a public hearing for itself, or that the responsible administering agencies are required to have policies. The policies set forth for the schools must be discussed publicly. The act allows for this to be conducted at a board meeting.

The language does not indicate that the Administrative Authority; school district offices or offices of the diocese have the responsibility to comply with the CIPA requirements. It only establishes the responsibility of the school board/diocese office to insure that the schools are in compliance.

B. Section 1721 (5)(C) Certification With Respect to Adults

This section reflects the same exclusive attention to schools and reads as follows:

“(C) CERTIFICATION WITH RESPECT TO ADULTS.--A certification under this paragraph is a certification that the school, school board, local educational agency, or other authority with responsibility for administration of the school—

“(i) is enforcing a policy of Internet safety that includes the operation of a technology protection measure with respect to any of its computers with Internet access that protects against access through such computers to visual depictions that are—

“(I) obscene; or

“(II) child pornography; and

“(ii) is enforcing the operation of such technology protection measure during any use of such computers.

Comment: The previous section addressed the issue of the public hearing, and allowed public hearings by agents or entities responsible for the school. This section provides a list of entities authorized to certify compliance by the school with respect to adults. Either the school can certify this, or another agency/entity is permitted to certify that the school is in compliance.

The language in this policy does not indicate that protective devices need to be in place by the “school board, local educational agency, or other authority with responsibility for administration of the school.” That is, the board, the local educational agency or administrative authority responsible for the school must certify that the *school* is in compliance.

IV. SUMMARY.

The text of the The Children’s Internet Protection Act directly addresses compliance by schools. There is no evidence to support a judgment that entities such as a school board, district office or the office of the diocese, as in this case, must be in compliance with the provisions set forth by The Children’s Internet Protection Act. The terms allow these entities to act on behalf of the schools; to hold public hearings to address the internet policy, and to certify compliance of the school. The Diocese of St. Petersburg Administrative Office is not the focus of protection established by The Children’s Internet Protection Act, rather the administrative device to insure compliance in the schools of the Act.

Respectfully,

Candice Lewis for Richard Senturia, Consultant
9666 Olive Street Blvd., Suite 215
St. Louis, MO 63132
314-282-3669 office
314-395-5882 fax
clewis@erateprogram.com
rsenturia@erateprogram.com

