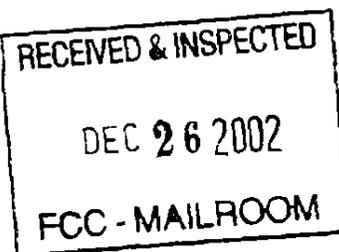


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Beth Jacob High School
4421 15th Ave
Brooklyn, NY 11219
718-851-2319



Letter of Appeal

December 17, 2002

Federal Communications Commission
Office of the Secretary
445 12th Street, SW Room TW-A325
Washington, DC 20554

RE: CC Docket Nos. 56-45 and 57-21

Entity# 11882
471 Application #: 222224
FRN Numbers: 560730, 561087, 561109, 561167, 561176,
561190, 561438, 561456, 561487, 561502,
561511, 561689, 561843, 561863, 564664,
584741, and 584882
Funding Year: 7/1/2001-6/30/2002

We are appealing the denial of an appeal that our school submitted to the Schools and Libraries Division of USAC. The appeal was in regard to a change in the discount level our school received for items and services applied for in our Funding Year 4, 71112001-613012002 E-Rate form 371 application number 222224.

On the form 471 we indicated that our school was eligible for a 90% discount based on greater than 75% of our students being eligible for the National School Lunch Program.

The impact of the change in discount was that we received a 60% discount instead of a 90% discount on telecommunication funding and we were totally denied all internal connection funding because, as indicated on the Funding Commitment Decision Letter, the funding cap did not provide for internal connections for schools with less than a 90% discount level.

When I first spoke to the reviewer I did not intend to imply that our determination of discount eligibility was based solely on a survey. The first time that there was a reference to a survey was in the PIA reviewer's fax to me asking for a copy of the survey that he understood I had told him we had done.

As indicated on our appeal our original determination was based on a combination of sources. Included among these sources was information annotated during tuition assistance interviews

The PIA process was done at the time we were preparing to move to our new building and our records were in storage for the move. In order to provide the information PIA requested we would have had to take the records out of storage and review the scholarship information. This

process would have taken more time than we understood PIA was willing to wait. We therefore decided to do a current survey.

Regardless of the PIA reviewer's understanding Of our verbal communications, we responded to his request for information substantiating our request for a 90% discount with a survey that clearly showed our school was eligible for the 90% discount we requested,

In regard to the SLD's indication that the survey we used **was** insufficient to determine discounts per program rules, the survey used was provided by Agudath Israel of America as part of an E-Rate Material package which was given out at the E-Rate workshops, which they sponsored. SLD representatives gave these workshops.

The survey shows a chart of family size corresponding to family income and asked the respondents to indicate if their household income was equal to or less than the income indicated for their family size. Even if the respondent did not indicate the family size or income, answering the question determines if the family is above or below 185% of the federal poverty guideline.

In addition to the question of family size compared to income the survey included questions in regard to eligibility for:

- Food Stamps
- Medicaid
- Supplementary Income (SSI)
- Section 8
- Home Energy Assistance (LIHEAP)

We feel the SLD denial of our appeal should be overturned for the following reasons:

1- We provided an email correspondence from the coordinator of the New York State Department of Child Nutrition Management System indicating that the database, which the SLD used in determining our discount level, was not necessarily accurate for our school.

2- We responded to PIA's request for information substantiating our request for a 90% discount by providing the information from the survey performed. The survey information we provided was in a format that met program rules for determining discounts and demonstrated that our school qualifies for the 90% discount requested.

We therefore request that Funding Decision Commitment Letters be issued providing us with a 90% discount and approval of our internal connections FRN(s).

Based on the information presented herein we request that our appeal be granted and our discount percentage be changed to 90% and the denied FRN(s) be approved for funding.

Sincerely,



Yitzchok Kaplan
Administrator

Confidential E-Rate Family Survey - 2001-2002

PLEASE PRINT

Family Name _____
 Address _____
 City, State, Zip NY BROOKLYN 11230
 Signature of Parent/Guardian _____
 Date 11/25/02

The following table shows the income levels used by the E-Rate program to determine discounts on technology services for our school.

Household Size (Adults and Children)	Annual income (As Reported to IRS)
1	\$ 15,892
2	<u>\$ 21,479</u>
3	\$ 27,066
4	\$ 32,653
5	\$ 38,240
6	\$ 43,827
<u>7</u>	\$ 49,414
8	\$ 55,001
9	\$ 60,588
10	\$ 66,175
11	\$ 71,762
12	\$ 77,349

Each additional family member + \$ 5,587

Is your annual household income equal or less than the amount shown for your family size? Yes ✓ No _____

Is your family eligible for food stamps? Yes ✓ No _____

Does your family qualify for medical assistance under Medicaid? Yes ✓ No _____

Is your family receiving Supplementary Security Income (SSI)? Yes _____ No ✓

Does your family receive housing assistance (Section 8)? Yes ✓ No _____

Does your family receive home energy assistance (LIHEAP)? Yes _____ No ✓

Please list the students in your family attending our school:

Name <u> </u>	Grade <u>10</u>
Name _____	Grade _____

THIS INFORMATION IS CONFIDENTIAL AND WILL BE KEPT IN OUR SCHOOL.
 THANK YOU FOR YOUR HELP.

Confidential E-Rate Family Survey – 2001-2002

PLEASE PRINT

Family Name [REDACTED]
 Address [REDACTED] STREET
 City, State, Zip BROOKLYN NEW YORK 11218
 Signature of Parent/Guardian [Signature]
 Date 1/25/02

The following table shows the income levels used by the E-Rate program to determine discounts on technology services for our school.

Household Size (Adults and Children)	Annual Income (As Reported to IRS)
2	\$ 15,892
3	\$ 21,479
4	\$ 27,066
5	\$ 32,653
6	\$ 36,240
7	\$ 43,827
<u>8</u>	\$ 49,414
10	\$ 55,001
11	\$ 60,588
12	\$ 66,175

Each additional family member + \$ 5,587

Is your annual household income equal or less than the amount shown for your family size? Yes No

Is your family eligible for food stamps? Yes No

Does your family qualify for medical assistance under Medicaid? Yes No

Is your family receiving Supplementary Security Income (SSI)? Yes No

Does your family receive housing assistance (Section 8)? Yes No

Does your family receive home energy assistance (LIHEAP)? Yes No

Please list the students in your family attending our school:

Name [REDACTED] Grade 27
 Name [REDACTED] Grade 4
 Name _____ Grade _____
 Name _____ Grade _____
 Name _____ Grade _____
 Name _____ Grade _____

THIS INFORMATION IS CONFIDENTIAL AND WILL BE KEPT IN OUR SCHOOL.
 THANK YOU FOR YOUR HELP



Administrator's Decision on Appeal - Funding Year 2001-2002

October 21, 2002

Yitzchok Kaplan
Beth Jacob HS
4421 15th Ave.
Brooklyn, NY 11219

Tie:	Billed Entity Number:	11882
	471 Application Number:	222224
	Funding Request Number(s):	560740,561087,561109,561167,561176, 561190,561438,561456,561487,561502, 561511,561689,561843,561863,564664, 584741,584882
	Your Correspondence Dated:	March 20,2002

After thorough review and investigation of all relevant facts, the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company ("USAC") has made its decision in regard to your appeal of SLD's Year Four Funding Commitment Decision for the Application Number indicated above. This letter explains the basis of SLD's decision. The date of this letter begins the 60-day time period for appealing this decision to the Federal Communications Commission ("FCC"). If your letter of appeal included more than one Application Number, please note that for each application for which an appeal is submitted, a separate letter is sent.

Funding Request Number: 560740,561087,561 109,561167,561176,561190,
561438,561456,561487,561502,561511,561689,
561843,561863, 564664,584741, 584882

Decision on Appeal: **Denied in full**
Explanation:

- In your letter of appeal you state that you are appealing the SLD's decision to lower your discount from 90% to 60% based on the fact that greater than 75% of your student body come from families whose income is at or below 185% of the federal poverty guideline. The determination that your school is eligible for 90% discount was based on the information from NSLP applications and information gathered from tuition assistance applications. You have included an e-mail from Rich Connell of the NY State DOE which notes that while free and reduced eligibility data is often used as a measure of poverty, there are many cases in

which the data is not reflective of the overall school population. You note that due to this fact, you had to use NSLP enrollment and other measures of poverty (food stamps and Section 8) to determine the overall percentage for the school. During application review you were contacted by PIA. After the phone call you received a fax requesting information about the surveys that were done to determine discount percentage. Due to the fact that you used a combination of sources to determine discount, the information was not in a concise format and therefore you would not be able to respond in the timeframe requested. In order to comply with this request you performed a current survey and faxed the results to PIA review. As copy of this survey is included with the appeal. You spoke with PIA after the survey was received and there was no indication of a problem at that time. You state that the Funding Commitment Decision Letter did not specifically address how the decision to lower your discount was made. If this has been addressed in the appeal you have requested a new FCDL with a 90% discount. If the issues have not been addressed on appeal you have requested information on how this decision was made so that you can respond in an appropriate manner.

- Upon review of the appeal, it was determined that your requested discount of 90% varied from what was verified by the SLD database. In order to verify the requested discount you were contacted by PIA review. SLD records indicate that when contacted, you stated that surveys were used to determine discount percentage. This contact included a follow up fax that detailed what documentation was necessary to verify your discount. You responded with a fax stating that surveys were sent to all students and that the results verified the 90% discount that was requested. A copy of this survey was included. As the survey did not specify family size and income, it was deemed insufficient per program rules. This survey was dated 11/30/2002, which is 15 days after PIA's request for discount verification. You had failed to respond to PIA requests for clarification of why the survey date was after the request for documentation but have addressed this on appeal. You now state that a combination of sources was used to determine the discount and that in order to respond expeditiously you performed a current survey. However, this was not expressed to PIA. This also contradicts your fax to PIA review, which indicates that discount was determined solely by survey. You failed to notify PIA that the discount was determined by a current survey in your correspondence. Correspondence to PIA clearly indicates that surveys were used to determine discount level. The survey provided to PIA and on appeal does not verify family size and income level and has been deemed insufficient to determine discounts per program rules. You have acknowledged that a current survey was performed during PIA review. This indicates that the original surveys used to determine discount eligibility were not on file, which is a violation of program rules. You have argued that other sources were used to determine poverty levels but have not provided this evidence on appeal. This contradicts information provided during review of the application. Consequently, the appeal is denied.

- You indicated on your Form 471 that your discount eligibility is 90 % based upon student surveys. FCC rules provide that the discount available to **an** applicant is determined by indicators of poverty and high cost. *See* 47 C.F.R. § 54.505(b). The level of poverty is measured by the percentage of students enrolled in a school or school district that are eligible for a free or reduced price lunch under the national school lunch program or a federally-approved alternative mechanism contained in Title 1 ~~of~~ the Improving America's Schools Act, codified at 34 C.F.R. § 200.28(a)(2)(I)(B). *See* 47 C.F.R. § 54.505(b)(1). Alternatively, the level of poverty is measured according to participation **in** Medicaid, food stamps, Supplementary Security Income (SSI), federal public housing assistance or Section 8, or Low Income Home Energy Assistance Program (LIHEAP). *See* Federal-State Joint Board on Universal Service, CC Docket No. 96-45, **Report and Order**, FCC 97-157 n.1334 ¶ 374 (rel. May 8, 1997). The high cost determination is made pursuant to rules according to which a school or library is classified as rural or urban. *See* 47 C.F.R. § 54.505(b)(3). **An** applicant's discount **rate is** determined by reference to a matrix based upon ~~the~~ **level** of poverty and whether a school is classified as rural or urban. *See* 47 C.F.R. § 54.505(c).
- SLD's review of your application determined that your discount eligibility percentage was not supported by appropriate documentation. SLD modified your discount eligibility percentage using the following documentation: **NY** State DOE website. You did not demonstrate in your appeal that the adjustment SLD made to your discount eligibility percentage was incorrect. Consequently, SLD denies your appeal.

If you believe there is a basis for further examination of your application, you may file **an** appeal with the Federal Communications Commission (FCC) via United States Postal Service: FCC, Office of the Secretary, 445-12th Street SW, Washington, DC 20554. If you are submitting your appeal to the FCC by other than United States Postal Service, check the SLD web site for more information. Please reference CC Docket Nos. 96-45 and 97-21 on the first page of your appeal. **The FCC must RECEIVE your appeal WITHIN 60 DAYS OF THE ABOVE DATE ON THIS LETTER for your appeal to be filed in a timely fashion.** Further information and new options for filing **an** appeal directly **with** the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site, www.sl.universalservice.org.

We thank you for your continued support, patience, and cooperation during the appeal process.

Schools and Libraries Division
 Universal Service Administrative Company