



April 24, 2006

ELECTRONICALLY FILED

Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, D.C. 20554

Ex Parte Notice

Re: CC Docket Nos. 96-45 and 02-6
Appeal of Achieve3000 from SLD Administrator's Decision Letter,
dated January 12, 2006,

Dear Ms. Dortch:

On April 21, 2006, Ilene Rosenthal, Achieve3000's President, Strategic Initiatives; George McDonald of E-rate Central; and the undersigned, met with Erica Myers and Narda Jones, Division Chief, of the Telecommunications Access Policy Division in the Wireline Competition Bureau, to discuss the issues raised by the appeal captioned above and summarized in the attached meeting handout.

Pursuant to Section 1.1206(b) of the Commission's Rules, 47 C.F.R. § 1.1206(b), copies of this letter and attachment are being filed with the Office of the Secretary.

Sincerely,

A handwritten signature in cursive script that reads 'Colleen Boothby'.

Colleen Boothby

Attachment
2006424145599

Background

- Achieve3000 provides schools with Email3000, an email program for students, with standard email features and functions. Users can:
 - Send attachments
 - Manage folders
 - Send group messages
 - Format messages
 - Selectively delete or move single or multiple messages
- Achieve3000 also provides a reading program, KidBiz3000, that includes Email3000 for delivery of individualized reading material to students.
- Email3000 allows schools to provide a safe, spam-free, kid-friendly alternative to traditional POP3 e-mail accounts because the school can choose to configure the service to restrict messaging -- by classroom, grade, school, or district, depending on the preferences and policies of the individual school district. Schools can also include parents.
- Schools demand this feature from their email programs in order to keep students safe and protect the school from liability.
- Email service and Email account fees are included on the eligible services list, which describes them as follows:
 - “E-mail service provides for the transmission of simple text messages and other embedded data.”
 - “E-mail account fees are charges for individual user access to e-mail services.”

Problem

- SLD has denied three funding requests that included Email3000

New Orleans Public Schools

Dec. 3, 2004 – Funding Commitment Decision Letter

Jan. 12, 2006 – SLD denial of appeal

Mar. 10, 2006 – FCC appeal filed

District of Columbia Public Schools

June 21, 2005 – Funding Commitment Decision Letter

Oct. 21, 2005 – SLD denial of appeal

Nov. 28, 2005 – FCC appeal filed

East Orange School District, New Jersey

Nov. 16, 2005 – Funding Commitment Decision Letter

Jan. 13, 2005 – Appeal filed with SLD

- SLD’s rationale
 - “E-mail accounts that are limited only to a small portion of the Internet e-mail community does not fit within the FCC’s eligibility requirements for Internet access.”

- SLD's funding denials are inconsistent with FCC requirements and sound public policy
 - Inconsistent with Eligible Services List, which contains no prohibition against access restrictions for email user accounts
 - Inconsistent and discriminatory given widespread use and SLD funding of email products with nearly identical options for access restrictions
 - Ignores crucial need to protect young students from spam and other unwanted or potentially dangerous email contacts

Action we seek

- Expedited relief from erroneous SLD decisions
 - School choice regarding access restrictions are imperative to protect vulnerable users from imminent harm
 - Two appeals already pending before FCC; one more pending at SLD
 - Funding requests that were already granted are at risk of commitment adjustment letters
 - Confusion, expense, and delay for schools planning to include Email3000 in applications for the new funding year
 - Kid-friendly email services are the marketplace norm, not the exception
 - Level competitive playing field for Achieve3000 and providers of competing email products
- Prospective application of any change in the eligibility of e-mail service