

SANTA CLARA COUNTY  OFFICE OF EDUCATION

Colleen B. Wilcox, Ph.D.  
*Superintendent*

Letter of Appeal, CC Docket No. 02-6  
Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Letter of Appeal for CC Docket No. 02-6 is a Request for Review of USAC SLD decision for the appeal of Form 471 Application number 511227.

Funding Commitment Decision Explanation: Funding was denied because all of the Letters of Agency or other documentation authorizing the filing of the Form 471 either did not authorize the services requested on the Form 471 or did not describe the services covered by the LOA.

Form 471 Application Number: 511227  
Billed Entity Name: Santa Clara County Office of Education  
Billed Entity Number (BEN): 144333  
Billed Entity FCC RN: 0012723219  
Applicant's Form Identifier: Yr9-T1-Cons

This Letter of Appeal is requesting review of the denial of funding for Form 471 Application Number 511227, due to improper letters of agency.

We believe that the criteria given on the USAC website were met. Letters of Agency with cover letters were sent to our consortium members. The cover letter and the original Letter of Agency specifically state that the E-rate applications are for: **"eligible shared infrastructure costs needed to provide Internet access... It is for the backbone services that provide INTERNET ACCESS..."** There were two versions of the Letter of Agency sent to consortium members. The original contained these two clauses. A different Letter of Agency was inadvertently attached to a reminder that was sent out and it omitted these clauses, referring to E-rate services in general. However, the Cover Letter included with all communications contained the clauses describing the type of services covered by the LOA. Therefore all the consortium members were aware when signing either LOA that they were authorizing the SCCOE to file for eligible Internet Access services.

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Mary Gonzales, the SCCOE E-rate contact at the time of the application, was new to the technical position and had no previous E-rate or professional federal grant writing experience. She created the second Letter of Agency that she thought met the guidelines specified on the USAC website and had those completed, signed, and dated by the districts and schools that were to receive services requested by the E-rate application.

The instructions on the USAC website state: "Whatever the form of the document establishing the above authorizing, it must contain all of the following:

1. Name of the **person filing the application** (Consortium Leader)
2. Name of the person **authorizing the filing of the application** (entity who will receive discounted services such as **consortium member**.)
3. Specific **timeframe** the LOA or authorizing document covers.
4. **Signature, date, title** of an official who is an employee of the entity
5. Pertaining to: "The type of services covered by the LOA or authorizing document. **The description of services can be as general as "all E-rate eligible services"** or it can be more restrictive.

The second LOAs submitted clearly state: "I authorize Les Hedman, Santa Clara County Office of Education **to submit the E-rate forms** for E-rate year 2006 (Year 9) (July 1, 2006 – June 30, 2007), **and other forms as required to the Schools and Library Division on behalf of our school system listed below.**"

They also certify: "I certify that the **services** that our school system **purchases at the E-Rate discounts** will be used solely for educational purposes and will not be sold, resold, or transferred in consideration for money or any other thing of value. The Consortium Forms 471 applications are marked as consortium applications and are only valid for the **services** applied for in the form 471 application filed for the consortium.

These two statements covered the two SLD requirements of "the description of services can be as general as "all E-rate eligible services". The first paragraph covers the all E-rate eligible forms and the second covers all **services purchased with E-rate discounted funds** by the consortium because that is the intent of the Letter of Agency.

The USAC assumption is that there is insufficient information. The USAC website also states: "In certain situations, other documentation may be accepted as proof of authorization. For example, for consortium applications, the consortium lead member must either collect Letters of Agency from each consortium member or be able to

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provide some other proof that each consortium member knew it was represented on the application.” The LOAs with the cover letters were submitted to all consortium members as supporting documentation and not as a stand-alone document. The cover letters should be considered “other documentation” that along with the signed LOA provide proof the consortium members knew what they were authorizing when they signed the LOAs. The Consortium members were clearly aware that they were authorizing the SCCOE to file for E-rate eligible services, specifically Internet Access. We believe that the combination of our Cover Letter and the Letter of Agency made it clear to our consortium members their participation and the type of services covered in signing the LOA. The members of our consortium have been participants since the E-rate Year 1 and they are very familiar with the purpose of the consortium and the services being requested.

I strongly urge you not to allow this relatively minor ministerial clerical issue in the LOA wording to be grounds for denying funding to schools which deserve and are qualified for the requested funding. I believe all attempts were made to adhere to FCC and USAC E-Rate requirements and that this was just an error in exactitude, not of clarity, on the Letters of Agency.

To help facilitate your review we have attached below the Cover Letter, original Letter of Agency, and the 2<sup>nd</sup> Letter of Agency.

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Below is the wording of the Cover Letter sent to all consortium members with each communication.

From: Les Hedman, Director of Information Technology  
Regional Technology Center  
Santa Clara County Office of Education

Date: January 9, 2006

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The application window for Year 2006-2007/Year 9 of the E-REate program has opened. E-Rate provides discounts on telecommunications services, Internet access, and internal connections. The funds for which we are now eligible to apply are for the period from July 1, 2006 to June 30, 2007.

**CONSORTIUM**

The SCCOE is again filing an E-Rate discount application as a consortium, on behalf of the districts that connect to the SCCOE for Internet Access. This application will provide discounts for your eligible shared infrastructure costs needed to provide Internet access. This consortium will not cover your communication line from your district office or school to the COE. It is for the backbone services that provide INTERNET ACCESS only.

Please sign and return the Letter of Agency (attached), which acknowledges your participation in this consortium by January 19, 2006. A faxed copy, followed by the original, is fine.

**E-RATE ELIGIBILITY**

In order to submit the E-Rate application, we must submit a list of your school(s), their FCC number, their enrollment, and the number of corresponding students eligible for the Free and Reduced Lunch program. If you have filed (or are filing) an E-Rate application for your school or district, please provide the same numbers as you submitted on your Form 471. Your October 2005 "School Level CalWorks and Free and Reduced Price Meal Program Report" may be used to supply the information for your schools. These figures **MUST BE** received into our office by **Thursday, January 19, 2006** in order for you to be included in the consortium. A faxed copy is acceptable.

Please return the Letter of Agency and send your eligibility figures **NO LATER THAN THURSDAY, JANUARY 19, 2006**.

Fax: 408-453-6730  
Mail: Santa Clara County Office of Education  
1290 Ridder Park Dr., MC253  
San Jose, CA 95131-2398

Information on E-Rate can be found at:

<http://www.sl.universalservice.org>

Client Service Bureau: 888-203-8100

<http://www.cde.ca.gov/ls/et/ft/documents/eratetrainerlist.doc>

Wayne Shimizu, CDE E-Rate

Coordinator 916-322-5894

[wshimizu@cde.ca.gov](mailto:wshimizu@cde.ca.gov)

If you have any questions about this request please contact Mary Gonzales on 408-453-6710.

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Below is the wording of the original Letter of Agency sent to all consortium members.

**Santa Clara County Office of Education  
Consortium E-Rate Letter of Agency  
For the Year 2006-2007**

This is to confirm our school district's participation in the Santa Clara County Office of Education E-rate Consortium, on behalf of the districts that connect to the SCCOE for Internet Access. This application will provide discounts for your eligible share infrastructure costs needed to provide Internet Access. This consortium will not cover your communication line from your district office or school to SCCOE. It is for the backbone services that provide **INTERNET ACCESS** only.

I hereby authorize Santa Clara County Office of Education to submit FCC Form 470, FCC Form 471, and other E-rate forms to the Schools and Libraries Division of the Universal Service Administrative Company on behalf of the undersigned school district.

I understand that, in submitting these forms on our behalf, you are making certifications for our school district. By signing this Letter of Agency, I make the following certifications:

- (a) I certify that the schools in our district are all schools under the statutory definitions of elementary and secondary schools found in the Elementary and Secondary Education Act of 1965, that do not operate as for-profit businesses and do not have endowments exceeding \$50 million.
- (b) I certify that the schools in our district have secured access to all of the resources, including computers, training, software, maintenance, and electrical connections, necessary to make effective use of the services purchased as well as to pay the discounted charges for eligible services
- (c) I certify that the schools in our district are all covered, or will be covered at the time funded services are provided, by E-rate approved technology plan(s) (unless discounts are only being requested for basic local and long distance telephone service).
- (d) I certify that our school district is compliant, or will be compliant at the time funded services are provided, with the Children's Internet Protection Act (unless discounts are only being requested for telecommunications services).
- (e) I certify that the services that our school district purchases using E-rate discounts (as described in the law 47 U.S.C. Sec. 254) will be used solely for educational purposes and will not be sold, resold, or transferred in consideration for money or any other thing of value.
- (f) I certify that the entities eligible for support that I am representing have complied with all applicable state and local laws regarding procurement of services for which support is being sought.
- (g) I certify that our school district has complied with all E-rate program rules and I acknowledge that failure to do so may result in denial of discount funding and /or cancellation of funding commitments.
- (h) I understand that the discount level used for shared services is conditional, for future years, upon ensuring that the most disadvantaged schools and libraries that are treated as sharing in the service, receive an appropriate share of the benefits from those services.
- (i) I certify that I am authorized to sign this letter of agency and, to the best of my knowledge, information, and belief, all information provided to Santa Clara County Office of Education for E-rate submission is true.

I understand that persons willfully make false statements on E-rate forms or through this letter of agency can be punished by fine or forfeiture under the Communications Act, 47 U.S.C. Secs. 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. Sec. 1001.

District \_\_\_\_\_ Signature \_\_\_\_\_  
Date: \_\_\_\_\_ 200 \_\_\_\_\_ Name: \_\_\_\_\_

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Below is the wording of the 2nd Letter of Agency sent to all consortium members.

Letter of Agency:

Mr. Les Hedman  
Interim Chief Information Officer  
Santa Clara County Office of Education  
1290 Ridder Park Drive MC253  
San Jose, CA 95131-2398

Dear Mr. Hedman,

This is to confirm our participation in the Santa Clara County Office of Education E-Rate Consortium for Year 2005 (Year 8) (July 1, 2005 – June 30, 2006), and that I authorize Les Hedman, Santa Clara County Office of Education, to submit the E-Rate Forms to the Schools and Library Division on behalf of our school system, listed below.

I also understand that in submitting these forms on our behalf, you are making certifications for our school system. By signing this letter of agency, I make the following certifications:

1. I certify that the services that our school system purchases at the E-Rate discounts (as described in the law, 47 U.S.C. Sec. 254) will be used solely for educational purposes and will not be sold, resold, or transferred in consideration for money or any other thing of value.
2. I recognize that support under this program is conditional upon the school(s) I represent securing access to all of the resources, including computers, training, software, maintenance, and electrical connections necessary to use the services purchased effectively.
3. I certify that I am authorized to sign this letter of agency and to the best of my knowledge, information and belief, all information provided to Les Hedman, Santa Clara County Office of Education, for the E-Rate submission is true.

I understand that persons willfully making false statements on the E-Rate Forms or through this Letter of Agency, can be punished by fine or forfeiture, under the Communications Act, 47 U.S.C. Secs. 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. Sec. 1001.

Signature of authorized person: \_\_\_\_\_

Date: \_\_\_\_\_

Printed name of authorized person: \_\_\_\_\_

Title or position of authorized person: \_\_\_\_\_

School System: \_\_\_\_\_

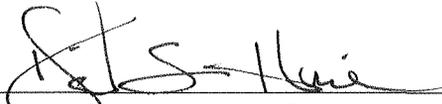
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CONTACT INFORMATION

Steven Mitome  
Santa Clara County Office of Education  
1290 Ridder Park Drive, MC253  
San Jose, CA 95131-2304  
408-453-6897  
408-453-6730 fax  
[steven\\_mitome@sccoe.org](mailto:steven_mitome@sccoe.org)

Authorized Signature:



5-4-07

David Huie, Network and Support Services Manager

Date

Telephone: 408-453-6743

Fax: 408-453-6730

Email: [david\\_huie@sccoe.org](mailto:david_huie@sccoe.org)

Santa Clara County Office of Education

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San Jose, CA 95131-2304

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