

Received & Inspected

AUG 26 2008

FCC Mail Room

CC Docket No. 02-6

Applicant Name:St. Barnabas High School
Billed Entity Number:10729
Form 471 Application Number:562892
Form 486 Application Number:410420
Funding Request Numbers:1552753, 1552795, 1552816, 1552843, 1552861

Request for Review: Administrator's Decision on Appeal – Funding Year 2007-2008

I am requesting the FCC review the decision made by the USAC regarding the lack of a Technology Plan at the time of filing for the Funding Year 2007-2008.

Circumstances:

The contract of the previous school principal, Mr. Joseph Mecora, was not renewed for the school year 2007 – 2008. He left little support for the incoming principal, Mr. Michael Musante. Mr. Musante filed the Form 471 and Form 486, unaware that the school's Technology Plan had expired by the funding year 2007.

Mr. Musante left St. Barnabas High School March 2008 (for personal reasons). Before he left, an updated Technology Plan was submitted and approved. The USAC reduced the funding to be received, from July 1, 2007 – June 30, 2008 to October 1, 2007- June 30, 2008. St. Barnabas High School lost funding for the months July, August, and September 2007 because of the lack of an approved technology plan during that time.

I am requesting the FCC please consider the unusual and confusing circumstances regarding the change and transition of administration at that time and please reinstate funding for those months.

Enclosed, for your consideration, is the information sent to the USAC for Appeal (dated May 12, 2008). The USAC decision letter is dated June 30, 2008.

Sincerely,

Rita Ferrari

St. Barnabas High School
Rita Ferrari
rf17011@yahoo.com
718-324-1088

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List ABCDE



Administrator's Decision on Appeal – Funding Year 2007-2008

June 30, 2008

Rita Ferrari
St. Barnabas High School
425 E 240th Street
Bronx, NY 10470-1709

Re: Applicant Name: ST BARNABAS HIGH SCHOOL
Billed Entity Number: 10729
Form 471 Application Number: 562892
Form 486 Application Number: 410420
Funding Request Number(s): 1552753, 1552795, 1552816, 1552843, 1552861
Your Correspondence Dated: May 12, 2008

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 USAC's Funding Year 2007 Form 486 Notification Letter for the Application Number indicated above. This letter explains the basis of USAC'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 you will receive a separate letter for each application.

Funding Request Number(s): 1552753, 1552795, 1552816, 1552843, 1552861
Decision on Appeal: **Denied**
Explanation:

- During the Appeal Review, USAC thoroughly assessed the facts presented in the appeal letter, the relevant documentation on file, and the FCC Rules and Procedures before making its determination on your appeal. USAC's records show that St. Barnabas High School is requesting discounts on services other than "POTS" wireless and wireline telephone services for which a Technology Plan is required. The record also shows that during the Technology Plan Approval (TPA) Review, USAC requested the Technology Plan Approval Letter. The Technology Plan approval letter provided was dated October 5, 2007; which is after the requested Service Start Date (SSD) of July 1, 2007 on Form 486 application number 410420. Therefore, the SSD was modified to October 5, 2007, with the agreement of the applicant. On appeal, you have failed to provide

any evidence that USAC erred in its initial determination. Consequently, your appeal is denied.

- FCC rules require applicants to certify on their FCC Form 470 and FCC Form 471 that the entities receiving products and/or services other than basic telephone service are covered by an individual and/or higher-level technology plan that has been, or is in the process of being approved. See 47 C.F.R. sec. 54.504(b)(2)(iii) and (iv); 47 C.F.R. sec. 54.504(c)(1)(iv) and (v). The applicants are required to obtain approvals of their technology plans from their state, the Administrator, or an independent entity approved by the Commission and certified by USAC as qualified to provide such approval. On their FCC Form 486, applicants confirm that their plan was approved before they began receiving services. Pursuant to the FCC's Fifth Report and Order (FCC 04-190, released August 13, 2004), FCC rules require technology plans to include five mandatory content elements relating to the applicant's educational development strategies. See 47 C.F.R. sec. 54.508 for technology plan requirements.

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either USAC or the FCC. For appeals that have been denied in full, partially approved, dismissed, or canceled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD section of the USAC website or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

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

Schools and Libraries Division
Universal Service Administrative Company

Appeal Letter
St. Barnabas High School BEN 10729

Letter Of Appeal

Letter of Appeal
Schools and Libraries Division - Correspondence Unit
100 S. Jefferson Rd
P.O. Box 902
Whippany, NJ 07981

Re: Name: **St Barnabas High School**
BEN: **10729**
Funding Year: **2007**
Application: **562892**
Form 486 Notification Letter: **03/14,2008**

May 12, 2008

Dear Sirs,

This is a letter of **APPEAL** regarding the above captioned Form 486 Notification Letter regarding the following FRN's:

FRN#: **1552795** -- **All County Business machines Corporation**- "TPA Adjusted service start date"

FRN: **1552816**-- **All County Business machines Corporation**- "TPA Adjusted service start date"

FRN: **1552843** -- **All County Business machines Corporation**- "TPA Adjusted service start date"

FRN: **1552861** -- **All County Business machines Corporation**- "TPA Adjusted service start date"

For FRN **1552795,1552816,1552843,1552861** -- These FRN's all reference a Technology plan that was created March 15,2006 which predates the associated form 470 **16140000602137** which was posted **12/05/2006**. (see the attached technology plan). As stated on the cover sheet of the plan this is an **UPDATED** plan that replaced the prior plan and covers July 1, 2006 through June 30, 2009. The reviewer states in his e-mail that he was "*unable to determine from the USAC certified approval letter the effective date of the plan and the creation date*". From the e-mail correspondences, it is obvious that the principal, who is no longer employed by the school, was confused and intimidated in supplying a start date that is the **SOLE** basis for the TPA adjustment. (see attached correspondence)

Appeal Letter
St. Barnabas High School BEN 10729

In addition as seen in the Alaska Gateway School District GRO

Before the
Federal Communications Commission
Washington, DC 20554

| | | |
|---|---|-------------------------------------|
| In the Matter of |) | |
| |) | |
| Requests for Review and Waiver |) | |
| of the Decision of the |) | |
| Universal Service Administrator by |) | |
| |) | |
| Alaska Gateway School District |) | File Nos. SLD-412028, <i>et al.</i> |
| Tok, AK, <i>et al.</i> |) | |
| |) | |
| Schools and Libraries Universal Service |) | CC Docket No. 02-6 |
| Support Mechanism |) | |

ORDER

Adopted: September 14, 2006

Released: September 14, 2006

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this Order, we grant 128 appeals of decisions by the Universal Service Administrative Company (USAC) reducing or denying funding from the schools and libraries universal service support mechanism (also known as the E-rate program) on the grounds that they failed to timely submit an FCC Form 486.¹ As explained below, in each case we find that good cause exists to waive USAC's deadline for the FCC Form 486 filed with USAC and we remand the underlying applications associated with these appeals to USAC for further action consistent with this Order. To ensure that the underlying applications are resolved expeditiously, we direct USAC to complete its review of each application listed in the Appendix and issue an award or denial based upon a complete review and analysis no later than 90 days from the release of this Order. In addition, we direct USAC to develop targeted outreach procedures designed to better inform applicants of approaching FCC Form 486 filing deadlines and to provide applicants with a 15-day opportunity to file or amend the form.

2. As we recently noted, applicants seeking funding from the E-rate program contend that the application process is complicated and time-consuming.² As a result, a significant number of

¹In this Order, we use the term "appeals" to generically refer to requests for review of decisions, or to waivers related to such decisions, issued by the Commission, the Wireline Competition Bureau, or USAC. A list of these petitions is attached in the Appendix and we will refer to all of these parties as Petitioners. Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. 47 C.F.R. § 54.719(c).

²*Comprehensive Review of Universal Service Fund Management, Administration, and Oversight, Federal-State Joint Board on Universal Service, Schools and Libraries Universal Service Support Mechanism, Rural Health Care Support Mechanism, Lifeline and Linkup, Changes to the Board of Directors of*

Appeal Letter

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applications for E-rate support are denied because of applicant ministerial or clerical errors. We find that the actions we take here to provide relief will promote the statutory requirements of section 254(h) of the Communications Act of 1934, as amended (the "Act"), by helping to ensure that eligible schools and libraries obtain access to discounted telecommunications and information services.³ In particular, we believe that by directing USAC to enhance certain application outreach procedures and granting this limited waiver of the deadline, we will provide for a more effective application processing system that ensures eligible schools and libraries will be able to realize the intended benefits of the program as we consider additional steps to reform and improve the E-rate program.⁴ Requiring USAC to take these additional steps will not reduce or eliminate any application review procedures or program requirements that applicants must comply with to receive funding. Indeed, we retain our commitment to detecting and deterring potential instances of waste, fraud, and abuse by ensuring that USAC continues to scrutinize applications and takes steps to educate applicants in a manner that fosters program participation. We also emphasize that our actions taken in this Order should have minimal impact on the Universal Service Fund (USF or Fund) because the monies needed to fund these appeals have already been collected and held in reserve.⁵

II. BACKGROUND

3. Under the E-rate program, eligible schools, libraries, and consortia that include eligible schools and libraries may apply for discounts for eligible telecommunications services, Internet access, and internal connections.⁶ After an applicant for discounted services under the E-rate program has entered into agreements for eligible services with one or more service providers, it must file an FCC Form 471 with USAC.⁷ The FCC Form 471 notifies USAC of the services that have been ordered and supplies an estimate of funds requested for eligible services.⁸ USAC then issues a funding commitment decision letter indicating the funding, if any, for which the applicant is approved to receive. After the funding year begins and the applicant begins receiving services at the discounted rate, the applicant submits an FCC Form 486 to USAC. The FCC Form 486 indicates that the service has begun, specifies the service start

the National Exchange Carrier Association, Inc., WC Docket Nos. 05-195, 02-60, 03-109, CC Docket Nos. 96-45, 02-6, 97-21, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, 20 FCC Rcd 11308 (2005) (*Comprehensive Review NPRM*).

³47 U.S.C. § 254(h). The Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, amended the Communications Act of 1934.

⁴*Comprehensive Review NPRM*, 20 FCC Rcd at 11324-25, paras. 37-40 (seeking comment on the application process and competitive bidding requirements for the schools and libraries program).

⁵We estimate that the appeals granted in this Order involve applications for approximately \$11.3 million in funding for Funding Years 2000-2005. We note that USAC has already reserved sufficient funds to address outstanding appeals. See, e.g., Universal Service Administrative Company, Federal Universal Service Support Mechanisms Fund Size Projections for the Third Quarter 2006, dated May 2, 2006.

⁶See 47 C.F.R. §§ 54.501-54.503.

⁷See Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (December 1997) (Funding Year 1999 FCC Form 471); Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (September 1999) (Funding Year 2000 FCC Form 471); Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (October 2000) (Funding Year 2001 FCC Form 471); Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (November 2001) (Funding Year 2002 FCC Form 471); Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (October 2003) (Funding Year 2004 FCC Form 471); Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (November 2004) (Funding Year 2005 FCC Form 471) (collectively, FCC Form 471).

⁸47 C.F.R. § 54.504(c).

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date and demonstrates that the applicant has received approval of its technology plan.⁹ The timely submission of FCC Form 486 ensures that disbursements for discounts on eligible services are done in a prompt and efficient manner. Because the FCC Form 486 indicates the actual service start date, USAC will only issue disbursements to the service provider for discounts on eligible services after receipt of the form.¹⁰

4. The deadline for receipt of the FCC Form 486, which is established by USAC, has varied over the years. In Funding Year 2000, applicants with recurring services were required to submit the FCC Form 486 postmarked by December 14, 2001.¹¹ In Funding Year 2001, the FCC Form 486 was due October 28, 2001, unless the service start date began or a funding commitment decision letter was issued after October 28, 2001.¹² In that case, the FCC Form 486 was required to be postmarked no later than 120 days after the service start date or the date of the funding commitment decision letter, whichever was later, for applicants to receive discounts retroactively to the service start date.¹³ If an applicant failed to meet this requirement, USAC adjusted the start date for discounted services to either the date that the FCC Form 486 was postmarked or, in cases where the funding commitment decision letter came after the October 28, 2001 deadline, to 120 days before the date that the FCC Form 486 was postmarked.¹⁴ In Funding Year 2002 and subsequent funding years, the FCC Form 486 had to be postmarked no later than 120 days after the date service began or no later than 120 days after the date of the funding commitment decision letter, whichever was later, to receive discounts retroactively to the service start date.¹⁵ For a late FCC Form 486, the start date for discounted services is reset to 120 days before the postmark date.¹⁶ No

⁹Instructions for Completing the Schools and Libraries Universal Service, Receipt of Service Confirmation Form (FCC Form 486), OMB 3060-0853 (April 2000) (2000 FCC Form 486 Instructions); Instructions for Completing the Schools and Libraries Universal Service Receipt of Service Confirmation Form, OMB 3060-0853 (July 2001) (2001 FCC Form 486 Instructions); Instructions for Completing the Schools and Libraries Universal Service, Receipt of Service Confirmation Form (FCC Form 486), OMB 3060-0853 (September 2002) (2002 FCC Form 486 Instructions); Instructions for Completing the Schools and Libraries Universal Service, Receipt of Service Confirmation Form (FCC Form 486), OMB 3060-0853 (August 2003) at 2 (2003 FCC Form 486 Instructions) (collectively, FCC Form 486 Instructions).

¹⁰See, e.g., 2003 Form 486 Instructions at 2. See also *Federal-State Joint Board on Universal Service, Children's Internet Protection Act*, CC Docket No. 96-45, Order, 17 FCC Rcd 12443, 12444, para. 4 (2002) (*CIPA II Order*); 47 C.F.R. § 54.520.

¹¹See November 2001 Announcements, Funding Year 3 Disbursement Closeout Process, available at <http://www.sl.universalservice.org/whatsnew/2001/112001.asp>.

¹²*Federal-State Joint Board on Universal Service, Children's Internet Protection Act*, CC Docket No. 96-45, Report and Order, 16 FCC Rcd 8182, 8188-89, 8191, paras. 10, 18 (2001) (*CIPA Order*); 47 C.F.R. § 54.520(g)(1) (2001); 2001 Form 486 Instructions. Under the Children's Internet Protection Act (CIPA) and the Neighborhood Children's Internet Protection Act (NCIPA), Congress imposed new conditions on schools with Internet access that request discounted services under the schools and libraries universal service support mechanism. 47 U.S.C. § 254(f)(5), 254(i). Schools seeking costs for Internet access or internal connections services must certify to these conditions on the FCC Form 486. For Funding Year 2001, Congress established a deadline of October 28, 2001, unless services began after that date or the funding commitment decision letter was sent after that date. 47 U.S.C. §§ 254(h)(5)(E), 254(h)(6)(E); *CIPA Order*, 16 FCC Rcd at 8188-89, 8191, paras. 10, 18. Because the October 28, 2001 deadline for that funding year is a statutory requirement, it cannot be waived.

¹³2001 Form 486 Instructions at 8-10.

¹⁴Form 2001 486 Instructions at 9-10. See, e.g., *Request for Review by East Carroll Parish School Board, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-232946, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 24591, 24594, para. 7 (Wireline Comp. Bur. 2002) (providing funding only for services provided on or after the FCC Form 486 filing date of October 30, 2001, instead of the funding year start date of July 1, 2001).

¹⁵*CIPA II Order*, 17 FCC Rcd at 12445, para. 5; 2003 Form 486 Instructions at 6.

¹⁶*Id.*

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funding is provided for services rendered prior to the new start date and funding commitments are reduced for the relevant funding request.¹⁷

5. One hundred and twenty-eight Petitioners have requested a waiver of the deadlines or a review of USAC's decision to deny or reduce funding because of the Petitioners' late filings. The Commission may waive any provision of its rules on its own motion and for good cause shown.¹⁸ A rule may be waived where the particular facts make strict compliance inconsistent with the public interest.¹⁹ In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.²⁰ In sum, waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule.²¹

III. DISCUSSION

6. In this item, we grant 128 appeals of decisions reducing or denying requests for funding from the E-rate program and remand the underlying applications associated with these appeals to USAC for further action consistent with this Order.²² Petitioners' requests for funding were denied or reduced because USAC found that the FCC Form 486 was filed late or the form may not have been filed.²³ These Petitioners, however, either claim that the filings were on time,²⁴ that the late filings were the result of immaterial clerical, ministerial or procedural errors,²⁵ or that the late filings were due to circumstances beyond their control.²⁶

7. Based on the facts and the circumstances of these specific cases, we find that good cause exists to waive the deadline for filing the FCC Form 486 for Petitioners.²⁷ Under Bureau

¹⁷*Id.*

¹⁸47 C.F.R. §1.3.

¹⁹*Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*).

²⁰*WAIT Radio v. FCC*, 418 F.2d 1153, 1157, (D.C. Cir. 1969), *affirmed by WAIT Radio v. FCC*, 459 F.2d 1203 (D.C. Cir. 1972).

²¹*Northeast Cellular*, 897 F.2d at 1166.

²²Eldora Public Library (Eldora) framed its request for review as an appeal of USAC's denial of its request for an extension of the invoice deadline (FCC Form 472). Our review of the record indicates that Eldora did not file its FCC Form 486. Eldora claims that it inadvertently failed to comply with program rules because of Eldora's small staff and the complexity of the E-rate program. On our own motion, we grant a waiver of Eldora's FCC Form 486 deadline.

²³See Appendix.

²⁴See, e.g., Request for Review by Fair Haven School District; Request for Review by Oldham County Public Library; Request for Review by Schuylkill Intermediate Unit No. 29; Request for Review by Bordentown Regional School District; Request for Review by Diocese of Gallup Catholic Schools.

²⁵See, e.g., Request for Review by Quartzsite Elementary School District No. 4; Request for Review by Fort Plain Central School District; Request for Review by Good Shepard Center; Request for Review by Pueblo 60 School District; Request for Review by Lifeline Center for Child Development.

²⁶See, e.g., Request for Review by Yukon Flats School District; Request for Review by School District U 46; Request for Review by North Wasco County School District No. 21; Request for Waiver by Bay County School District; Request for Review by Western Christian High School.

²⁷Because we waive the FCC Form 486 deadline, applicants should receive funding from their actual service start date. We also direct USAC to waive any of its subsequent deadlines if related to the late-filed FCC Form 486, such as the FCC Form 472 deadline, if necessary for the processing of Petitioners' applications.

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precedent, deadlines have been strictly enforced for the E-rate program, including those pertaining to the FCC Form 486.²⁸ As we recently noted in *Bishop Perry Middle School*, a departure from required filing deadlines may be warranted upon careful review of the Petitioner's case and when doing so will serve the public interest.²⁹ Generally, these applicants claim that staff mistakes or confusion, or circumstances beyond their control resulted in missing the FCC Form 486 deadline.³⁰ We note that the primary jobs of most of the people filling out these forms include school administrators, technology coordinators and teachers, as opposed to staff dedicated to pursuing federal grants, especially in small school districts. Even when a school official becomes adept at the application process, unforeseen events or emergencies may delay filings in the event there is no other person proficient enough to complete the forms.³¹ Furthermore, some of the errors were caused by third parties or unforeseen events and therefore were not the fault of the applicants. Given that the applicants missed a USAC procedural deadline and did not violate a Commission rule, we find that the complete rejection of each of these applications is not warranted. Notably, at this time, there is no evidence of waste, fraud or abuse, misuse of funds, or a failure to adhere to core program requirements. Furthermore, we find that denial of funding in these cases would inflict undue hardship on the applicants. In these cases, the applicants have demonstrated that rigid compliance with USAC's application procedures does not further the purposes of section 254(h) or serve the public interest.³² We therefore grant these appeals and remand them to USAC for further processing consistent with this Order.

8. We emphasize the limited nature of this decision. Because the FCC Form 486 contains the Children's Internet Protection Act (CIPA) certification, all applicants must file the form with USAC.³³ While we have waived the deadline for filing, we do not waive the requirement of the filing itself. Furthermore, we recognize that filing deadlines are necessary for the efficient administration of the schools and libraries E-rate program. Although we grant the subject appeals before us, our action here does not eliminate USAC's deadline for filing the FCC Form 486. We continue to require E-rate applicants to submit complete and accurate information to USAC as part of the application review process. However, as of the effective date of this Order, we require USAC to develop additional outreach and educational efforts to inform applicants of the application requirements in an attempt to reduce these types of filing errors. Specifically, USAC shall develop a targeted outreach program designed to identify schools and libraries that have not filed their FCC Form 486 120 days from the date of their funding commitment decision letter or service start date, whichever is later.³⁴ The purpose of this outreach effort

²⁸See *Requests for Waiver by Lucia Mar Unified School District, et al., Schools and Libraries Universal Service Support Mechanism*, File Nos. SLD-249712, et al., CC Docket No. 02-6, Order, 19 FCC Rcd 20364, para. 3 (Wireline Competition Bur. Rel. May 28, 2004); *Request for Review by East Carroll Parish School Board, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-232946, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 24591, 24594, para. 7 (Wireline Comp. Bur. 2002).

²⁹*Request for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School, et al., Schools and Libraries Universal Service Support Mechanism*, File Nos. SLD-487170, et al., CC Docket No. 02-6, Order, 21 FCC Rcd 5316, para. 9 (rel. May 19, 2006) (*Bishop Perry Middle School*).

³⁰Some Petitioners claim that they postmarked the FCC Form 486 on time. Given that we are waiving USAC's deadline for these applicants who mistakenly or knowingly filed late, we give these Petitioners the benefit of the doubt and, to the extent necessary, waive the FCC Form 486 filing deadline for them as well.

³¹For example, Western Christian High School's sole Universal Service Fund official suffered a debilitating stroke and was unable to meet the Form 486 deadline. Request for Review by Western Christian High School at 1

³²See 47 U.S.C. § 254(h).

³³Those applicants that filed their FCC Form 486 with their appeal to the Commission must also file the form with USAC, if they have not already done so.

³⁴The service start date can be determined from Block 5 of the applicant's FCC Form 471.

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will be to provide the applicant with an additional opportunity to file or amend its FCC Form 486. When an applicant has missed the deadline to file its FCC Form 486, applicants will have 15 calendar days from the date of receipt of notice in writing by USAC to file or amend its FCC Form 486.³⁵ Again, this direction will not limit or preclude any application review procedures of USAC; instead, this 15-day period will provide E-rate applicants with a limited additional opportunity to file or amend its FCC Form 486. The 15-day period is limited enough to ensure that funding decisions are not unreasonably delayed for E-rate applicants and should be sufficient time to correct truly unintentional ministerial and clerical errors.³⁶ The opportunity for applicants to file or amend their filings to cure minor errors will also improve the efficiency and effectiveness of the Fund. Because applicants who are eligible for funding will now receive funding where previously it was denied for minor errors, we will ensure that funding is distributed first to the applicants who are determined by our rules to be most in need of funding. As a result, universal service support will be received by schools in which it will have the greatest impact for the most students. Furthermore, the opportunity to file or amend the application will improve the efficiency of the schools and libraries program. If USAC helps applicants file timely and correct forms initially, USAC should be able to reduce the money it spends on administering the fund because fewer appeals will be filed protesting the denial of funding for these types of issues. Therefore, we believe this additional opportunity to file the FCC Form 486 will improve the administration of fund. In addition, we note that the Commission has initiated a proceeding to address whether particular deadlines should be modified.³⁷

9. Finally, we are committed to guarding against waste, fraud, and abuse, and ensuring that funds disbursed through the E-rate program are used for appropriate purposes. Although we grant the appeals addressed here, this action in no way affects the authority of the Commission or USAC to conduct audits and investigations to determine compliance with the E-rate program rules and requirements. Because audits and investigations may provide information showing that a beneficiary or service provider failed to comply with the statute or Commission rules, such proceedings can reveal instances in which universal service funds were improperly disbursed or in a manner inconsistent with the statute or the Commission's rules. To the extent we find that funds were not used properly, we will require USAC to recover such funds through its normal processes. We emphasize that we retain the discretion to evaluate the uses of monies disbursed through the E-rate program and to determine on a case-by-case basis that waste, fraud, or abuse of program funds occurred and that recovery is warranted. We remain committed to ensuring the integrity of the program and will continue to aggressively pursue instances of waste, fraud, or abuse under our own procedures and in cooperation with law enforcement agencies.

IV. ORDERING CLAUSES

10. ACCORDINGLY, IT IS ORDERED that, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and pursuant to authority delegated in sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47

³⁵Such 15-day notice shall be 15 calendar days' notice, and shall commence on the date of receipt of such notice by applicant, or five (5) calendar days after such notice is postmarked as sent by USAC, whichever is sooner. Applicants will be presumed to have received notice five days after such notice is postmarked by USAC. USAC, however, shall continue to work beyond the 15 days with applicants attempting in good faith to file or amend their FCC Form 486.

³⁶We note that applicants will retain the ability to appeal decisions denying funding requests on the grounds discussed herein.

³⁷*Comprehensive Review NPRM*, 20 FCC Red at 11321, para. 29.

Appeal Letter

St. Barnabas High School BEN 10729

C.F.R. §§ 0.91, 0.291, 1.3 and 54.722(a), that the Requests for Review and/or Requests for Waiver filed by the Petitioners as listed in the Appendix ARE GRANTED.

11. IT IS FURTHER ORDERED that, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and pursuant to authority delegated in sections 0.91, 0.291, 1.3 and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, and 54.722(a), that the Requests for Review and/or Requests for Waiver filed by the Petitioners as listed in the Appendix ARE REMANDED to USAC for further consideration in accordance with the terms of this Order.

12. IT IS FURTHER ORDERED that, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and pursuant to authority delegated in sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91 and 0.291, USAC SHALL COMPLETE its review of each remanded application listed in the Appendix and ISSUE an award or a denial based on a complete review and analysis no later than 90 calendar days from release of this Order.

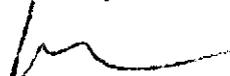
13. IT IS FURTHER ORDERED that this Order and the rules adopted herein SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Thomas J. Navin
Chief
Wireline Competition Bureau

Thus the funding for the FRN's should be set back to the starting date of 07/01/2007.

Sincerely,



Rita Ferrari
TI- e-rate Administrator

Technology Plan
(updated)

March 15, 2006

Saint Barnabas High School
425 East 240th Street
Bronx, New York 10470

Phone: 718-325-8800

FAX 718-325-8820

Mike Musante

From: Mike Musante
Sent: Tuesday, October 09, 2007 3:32 PM
To: 'Sewdat, Adrian'
Subject: RE: REMINDER: E-Rate FY2007 Form 486 #410420 TPA REMINDER Letter (AS)

Adrian

Somewhat, I knew it would not be over...

The technology plan - as it says on the copy I sent you!!! - is March 18th of 2006. The plan was approved by e-rate central at that time. The approval letter you received was mailed on October 5th. Do you want an approval letter with a different date? Is anything going to end this process? This is a sham, since all this should have been recorded in previous years in which this school received e-rate money.

You may use the 10-07 date if it suits the mystical purposes of USAC. 

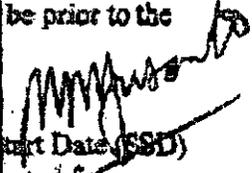
From: Sewdat, Adrian [mailto:ASEWDAT@al.universalservice.org]
Sent: Tuesday, October 09, 2007 3:01 PM
To: Mike Musante
Subject: RE: REMINDER: E-Rate FY2007 Form 486 #410420 TPA REMINDER Letter (AS)

Mike Musante,

I received your technology plan approval letter. I review it and it is from a USAC-certified approver. Thanks. However, it does not clearly specify the effective dates of the technology plan and the creation date was not supplied as it was requested in the original request. I also want to let you know the service start will be modified.

1. Is the effective dates of the technology plan 10-05-2007- 10-05-2008? Yes No
If no please indicate the effective dates and supplied documentation supporting it. It should be 07/01/07, but use what you need to use. October 5 works for me. 

2. Please specify in writing the creation date(s) (month/year) of each Technology Plan submitted. [The technology plan creation date is the month and year the technology plan was written, not the date when you began to develop or draft it. We define the creation date of your plan as the date it first contained the five required elements in sufficient detail to support the services requested on your Form 470. The creation date must be prior to the date your Form 470 is posted]. CREATION DATE: March 15, 2006.

3. Based on the documentation that you have provided, the Service Start Date (SSD) of FRN(s) <1552753, 1552795, 1552816, 1552843, 1552861> will be adjusted from <07/01/2007> to <10/05/2007> because your technology plan was not approved until after your services started 

If you believe the Service Start Date(s) should not be adjusted and you have alternative information to support your position, please supply it.
Thanks,

Adrian Sewdat
Program Compliance

10/9/2007