

March 13, 2009

Cynthia B. Schultz  
Direct: 202-457-6343  
cschultz@pattonboggs.com

**VIA ELECTRONIC FILING**

Ms. Marlene Dortch  
Secretary  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

Re: Request for Review and Waiver, Docket No. 02-6

<b>School</b>	<b>BEN</b>	<b>471 App. No.</b>	<b>FRN</b>	<b>Funding Year</b>
Lakeview Charter Academy	16021236	482548	1336236	2005
		482386	1335582	2005
		482321	1335315	2005

Dear Ms. Dortch:

Lakeview Charter Academy (“Lakeview”), a Partnerships to Uplift Communities charter school, acting through counsel, pursuant to Sections 54.719-54.721 of the Commission’s rules, hereby files this Consolidated Request for Review and Waiver (“Consolidated Request”), requesting review of the adverse decision of the Administrator of the Universal Service Administrative Company (“USAC”), denying Lakeview’s appeals, a waiver of the 60-day filing deadline for filing this Request and USAC’s continued efforts to incorrectly recover funds from Lakeview for FY 2005 and unjust and unfair recent Red Light action.<sup>1</sup> *See* Exhibit 1.

On March 31, 2008, USAC’s Schools and Libraries Division (“SLD”) issued a Notification of Improperly Disbursed Funds Letter for each above-listed FCC Form 471. On May 1, 2008, Lakeview filed a joint Appeal with SLD. *See* Exhibit 2. A copy of that Appeal is attached hereto and Lakeview hereby incorporates its Appeal by reference in support of this consolidated Request, including all of the facts and arguments made therein.

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<sup>1</sup> 47 C.F.R. § 54.719-57.721.

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On October 17, 2008, the SLD denied Lakeview's Appeal ("Denial Letter") stating, in error, that Lakeview did not have an approved Tech Plan when it filed its Form 486. Lakeview submitted a letter with its Appeal from the Los Angeles County Office of Education stating Lakeview did, in fact, have an approved Tech Plan before April 29, 2005, nearly one year before Lakeview filed its Form 486. However, the SLD did not explain why it deemed this letter as insufficient. Despite issuing its Denial Letter, the SLD also accepted and reviewed additional information in support of Lakeview's Appeal that was submitted on November 20, 2008 and November 26, 2008, almost a month after Denial Letter. On December 1, 2008, the SLD responded to Lakeview via e-mail stating "we do not find this information sufficient to approve the appeal" and "strongly suggested" Lakeview file an appeal with the Federal Communications Commission within 60-days of the date of the Denial Letter. At a minimum, the SLD should have explained why it rejected Lakeview's additional information and provided a basis for reaching its conclusion.

While the 60-day period for filing an appeal of the Denial Letter remained open, the SLD sent Lakeview the first of two Demand Payment Letters on November 10, 2008 and on December 11, 2008, respectively. The period for filing a timely appeal of the Denial Letter with the Federal Communications Commission ("FCC") ended on December 16, 2008, five days after the second Demand Payment Letter was sent to Lakeview. The SLD should have delayed sending the first Demand Payment Letter until the time for filing an appeal of the Denial Letter expired. There are no FCC rules that set forth the procedures for when Demand Payment Letters should be issued by USAC. The lack of clear guidance and procedures creates confusion and uncertainty, as is the case here.

Additional confusion is caused by the fact that the SLD is applying the FCC's Red Light Rules<sup>2</sup> to Lakeview but the FCC's records indicate Lakeview's status is GREEN. For example, the SLD dismissed one of Lakeview's FY2008 FCC Form 471 applications on January 15, 2009 because of an unpaid debt to USAC or the FCC even though the FCC's records reflect Lakeview's Red Light status is GREEN. *See* Exhibit 3.

Lakeview recently retained counsel to provide assistance with this matter. In order to preserve Lakeview's appeal rights, this Consolidated Request is being submitted, which will be supplemented at a later date to include additional facts and legal arguments. *See* 47 C.F.R. § 54.720(a). A waiver is necessary because this Consolidated Request is being filed outside of the 60-day appeal filing window due to significant internal confusion at Lakeview and other reasons.

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<sup>2</sup> 47 C.F.R. § 1.1910(b)(2).

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Lakeview respectfully requests that the Commission grant this Consolidated Request and direct the SLD to reverse the Notice of Improperly Disbursed Funds Letter dated March 31, 2008 for Funding Year 2005, cease all collection efforts of those appropriately remitted funds, reinstate the recent Notice of Dismissal for FY 2008,<sup>3</sup> and discontinue application of the FCC's Red Light Rules against all pending and future E-rate applications while this Consolidated Request is pending.

Sincerely,



Cynthia B. Schultz  
Counsel to Lakeview Charter Academy,  
a Partnerships to Uplift Communities Charter School

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<sup>3</sup> Lakeview FY 2008 Request for Review filed contemporaneously herewith in Docket No. 02-6.

# Exhibit 1



**Universal Service Administrative Company**  
Schools & Libraries Division

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**Administrator's Decision on Appeal – Funding Year 2005-2006**

October 17, 2008

Jaime Serrano  
PUC Schools  
111 North First Street  
Suite 100  
Burbank, CA 91502

Re: Applicant Name: LAKEVIEW CHARTER ACADEMY  
Billed Entity Number: 16021236  
Form 471 Application Number: 482321  
Funding Request Number(s): 1335315  
Your Correspondence Received: May 01, 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 2005 Notification of Improperly Disbursed Funds 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): 1335315  
Decision on Appeal: **Denied**  
Explanation:

- During the Appeal Review USAC determined that the applicant requested funding for Internal Connections during the original request for funding. The Item 21 is a quote for cabling, which is not basic telecom service; therefore, a technology plan was required. During a site visit, the applicant was requested to provide proof that their technology plan had been approved by a certified Technology Plan Approver for Funding Year 2005. In response, the applicant provided a tech plan approval letter that the applicant indicated was for funding year 2005, but the approval is dated June 9, 2006, which is after Form 486 #337116 was submitted on April 6, 2006 and after the requested Service Start Date (SSD) of July 4, 2005. On appeal, the applicant provided a letter dated March 25, 2008 from certified technology plan approver Los Angeles County Office of Education (LACOE)

stating that the technology plan was approved prior to April 29, 2005. During Appeal review, the applicant and LACOE were given the opportunity to provide the date of the LACOE approval and a copy of the technology plan approval letter if an approval letter had been issued. In response, LACOE provided approval timelines in October 2006 and then April 2006, but the applicant and LACOE failed to provide the dated technology plan approval letter. Additionally, LACOE was asked to explain the discrepancy between the original response that the plan was approved prior to April 29, 2005 and LACOE's subsequent responses, but failed to do so. A technology plan must be written at the time the Form 470 was filed and must be approved before the start of service or the filing of the Form 486, whichever is earlier. To locate a certified technology plan approver see <http://www.usac.org/sl/tools/search-tools/tech-plan-approver-locator.aspx>. You have failed to demonstrate that your technology plan had been approved by a certified Technology Plan Approver before the start of service.

You certified on your FCC Form 486 that the technology plan for the services received as indicated on the form was approved. During the review of your application, however, USAC determined that the technology plan you provided was not approved before receiving services as required by program rules. In your appeal, you did not show that USAC's decision was incorrect. 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

cc: Rodrigo E. Donoso



**Universal Service Administrative Company**  
Schools & Libraries Division

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**Administrator's Decision on Appeal – Funding Year 2005-2006**

October 17, 2008

Jaime Serano  
PUC Schools  
111 North First Street  
Suite 100  
Burbank, CA 91502

Re: Applicant Name: LAKEVIEW CHARTER ACADEMY  
Billed Entity Number: 16021236  
Form 471 Application Number: 482548  
Funding Request Number(s): 1336236  
Your Correspondence Received: May 01, 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 2005 Notification of Improperly Disbursed Funds 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): 1336236  
Decision on Appeal: **Denied**  
Explanation:

- During the Appeal Review USAC determined that the applicant requested funding for Internal Connections during the original request for funding. The Item 21 is a quote for switches and additional internal connections, which is not basic telecom service; therefore, a technology plan was required. During a site visit, the applicant was requested to provide proof that their technology plan had been approved by a certified Technology Plan Approver for Funding Year 2005. In response, the applicant provided a tech plan approval letter that the applicant indicated was for funding year 2005, but the approval is dated June 9, 2006, which is after Form 486 #337116 was submitted on April 6, 2006 and after the requested Service Start Date (SSD) of July 4, 2005. On appeal, the applicant provided a letter dated March 25, 2008 from certified technology plan approver

Los Angeles County Office of Education (LACOE) stating that the technology plan was approved prior to April 29, 2005. During Appeal review, the applicant and LACOE were given the opportunity to provide the date of the LACOE approval and a copy of the technology plan approval letter if an approval letter had been issued. In response, LACOE provided approval timelines in October 2006 and then April 2006, but the applicant and LACOE failed to provide the dated technology plan approval letter. Additionally, LACOE was asked to explain the discrepancy between the original response that the plan was approved prior to April 29, 2005 and LACOE's subsequent responses, but failed to do so. A technology plan must be written at the time the Form 470 was filed and must be approved before the start of service or the filing of the Form 486, whichever is earlier. To locate a certified technology plan approver see <http://www.usac.org/sl/tools/search-tools/tech-plan-approver-locator.aspx>. You have failed to demonstrate that your technology plan had been approved by a certified Technology Plan Approver before the start of service.

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Schools and Libraries Division  
Universal Service Administrative Company

cc: Rodrigo E. Donoso



**Universal Service Administrative Company**  
Schools & Libraries Division

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**Administrator's Decision on Appeal – Funding Year 2005-2006**

October 17, 2008

Jaime Serrano  
PUC Schools  
111 North First Street  
Suite 100  
Burbank, CA 91502

Re: Applicant Name: LAKEVIEW CHARTER ACADEMY  
Billed Entity Number: 16021236  
Form 471 Application Number: 482321  
Funding Request Number(s): 1335315  
Your Correspondence Received: May 01, 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 2005 Notification of Improperly Disbursed Funds 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.

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stating that the technology plan was approved prior to April 29, 2005. During Appeal review, the applicant and LACOE were given the opportunity to provide the date of the LACOE approval and a copy of the technology plan approval letter if an approval letter had been issued. In response, LACOE provided approval timelines in October 2006 and then April 2006, but the applicant and LACOE failed to provide the dated technology plan approval letter. Additionally, LACOE was asked to explain the discrepancy between the original response that the plan was approved prior to April 29, 2005 and LACOE's subsequent responses, but failed to do so. A technology plan must be written at the time the Form 470 was filed and must be approved before the start of service or the filing of the Form 486, whichever is earlier. To locate a certified technology plan approver see <http://www.usac.org/sl/tools/search-tools/tech-plan-approver-locator.aspx>. You have failed to demonstrate that your technology plan had been approved by a certified Technology Plan Approver before the start of service.

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Schools and Libraries Division  
Universal Service Administrative Company

cc: Rodrigo E. Donoso

# **Exhibit 2**



JACQUELINE ELLIOT  
DR. REF RODRIGUEZ  
*Co-Chief Executive Officers*

## Letter of Appeal for Notification of Improperly Disbursed Funds

Jaime Serrano  
111 N. First ST.  
Suite 100  
Burbank, CA 91502  
(818) 333-4585  
(818) 333-4587 – FAX  
[j.serrano@pucschools.org](mailto:j.serrano@pucschools.org)

RE: Notification date of improperly disbursed funds letter: March 31, 2008  
Funding Year: 2005  
Applicant Name: Lakeview Charter Academy  
Form 471 Application Number: 482548, 482386, and 482321  
Billed Entity Number: 16021236  
FCC Registration Number: 0011865573

During the course of a review it was determined that the technology plan for Lakeview Charter Academy was not approved at the time of submission of the form 486. We would like to appeal this decision based on the grounds that we did have approval from our state Technology Plan approver. I am enclosing a letter I requested from Los Angeles County of Education as proof that we had an approved Technology Plan at the time of submission of the form 486.



Jaime Serrano

PARTNERSHIPS TO UPLIFT COMMUNITIES

**Los Angeles County Office of Education**

Leading Educators • Supporting Students • Serving Communities

Darline P. Robles, Ph.D.  
Superintendent

March 25, 2008

Los Angeles County  
Board of EducationThomas A. Seerz  
PresidentSophia Waugh  
Vice President

Marta A. Castelas

Rudell S. Freer

Leslie K. Gilbert-Lurie

Angie Papadakis

Rebecca J. Turronino

Mr. Jaime Serrano  
Lakeview Charter Academy  
1445 Celis Street  
San Fernando, CA

Dear Mr. Serrano ;

This letter is to confirm that the Los Angeles County Office of Education can verify that your technology use plan for EETT Formula Funding was submitted for state review on April 29, 2005. Prior to that it had been approved for E-rate purposes for the years 7/1/2005 through 6/30/2009 at the County level by me as the initial part of the State Approval Process.

Approval meant that your district was eligible to participate in E-Rate, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) program that provides affordable access to telecommunications services for all eligible schools and libraries in the United States.

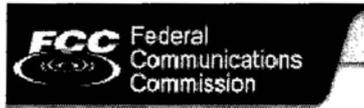
Should you need further assistance, please call (562-922-6244)

Sincerely,

A handwritten signature in cursive script that reads "Mary Lou Harbison".

Mary Lou Harbison  
Los Angeles County Office of Education

# Exhibit 3



## Red Light Display System

[FCC](#) > [Fees](#) > Red Light Display System

Logged in as: Lakeview Charter Academy (0011865573) [[Log Out](#)]

[Print](#) | [Help](#)

3/11/2009 11:55 AM

### Current Status of FRN 0011865573

**STATUS: Green**

**You have no delinquent bills which would restrict you from doing business with the FCC.**

The Red Light Display System checks all FRNs associated with the same Taxpayer Identification Number (TIN). A green light means that there are no outstanding delinquent non-tax debts owed to the Commission by any FRN associated with the requestor's TIN.

The Red Light Display System was last updated on 03/11/2009 at 8:55 AM; it is updated twice each business day at about 9 a.m. and 7 p.m., ET.

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#### Customer Service

[Red Light Help](#)

[FCC Debt Collection](#)

[FCC Fees](#)

[Web Policies / Privacy Policy](#)

**Red Light Display System Help Line: (877) 480-3201, option 4, 4; TTY (202) 414-1255 (Mon.-Fri. 8 a.m.-6:00 p.m. ET)**

Red Light Display System has a dedicated staff of customer service representatives standing by to answer your questions or concerns. You can email us at [arinquiries@fcc.gov](mailto:arinquiries@fcc.gov) or fax us at (202) 418-7869.