

**Before the
Federal Communications Commission
Washington DC**

In the Matter of:

)	
Request for Review of a decision)	
by the Schools and Libraries Division)	Administrator Correspondence Dated
for Thomasville City, Georgia)	July 17, 2009
Public Schools)	
)	
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	

Request for Review

In accordance with Sections 54.719 through 54.721 of the Commission’s Rules, by way of its consultant, E-Rate Central, now comes Thomasville City, Georgia public schools (Thomasville) before the Federal Communications Commission (FCC) to request review of a Decision on Appeal by the Schools and Libraries Division of the Universal Service Administrative Company (Administrator). This appeal comes timely submitted within 60 days of the Administrator decision.

Requestor: Thomasville City Public Schools
Billed Entity Number: 127530
FCC Registration Number 0013076377
Funding Request Numbers: 1291059
Form 471 Numbers: 468560

In correspondence dated May 8, 2009, the Administrator issued a Commitment Adjustment Letter, adjusted the funding commitment for the above referenced FRN contending the Balfour School for Young Children (School), Entity Number 181456, was not eligible for funding. The Administrator requested \$727 be returned to the Administrator for services delivered to the School. The Commitment Adjustment letter was generated as a result of a 2008 audit by KPMG of the Thomasville E-Rate applications. The final audit findings were dated February 18, 2008.

Thomasville appealed the decision to the Administrator in correspondence dated July 7, 2009. On July 17, 2009 the Administrator denied the appeal stating “...invoices submitted to USAC

included charges for Pre-K facility Balfour School For Young Children, BEN 181456; which is not eligible to receive funding as Pre-K entities are not recognized by the state of Georgia.”

Discussion

Pre-K facilities are now and were at the time of this application eligible for funding under Georgia state law. Section 591-2-1-.01 of Georgia law empowers the Georgia Department of Early Care and Learning with administration of the Bright from the Start program for Pre-K education (Attachment 1). Specifically:

General Scope and Purpose: This program is designed to provide grant funding to licensed or government childcare centers, local school systems, and Head Start organizations. Providers are to conduct a full day (6 ½ hours of instructional services), five days per week, for 36 weeks (180 days) per year of appropriate educational/instructional services for all four-year-old children and eligible five year old children (five year old children who did not previously participate in Georgia’s Pre-K Program).¹

The School receives grants under the Bright from the Start program. Thomasville also takes exception to the method the Administrator uses to determine eligibility of Pre-K and Head Start students in general. Thomasville was able to locate Georgia statutes that clearly show Pre-K and Head Start students are E-Rate eligible with very little effort. The Administrator will not however accept verification from an individual school, school district or outside party. Rather, a letter is sent to the State Superintendent who must research the law and respond to the Administrator. Because the Pre-K program is not administered by the Georgia Department of Education, it is likely the State Superintendent responded as such to the Administrator letter. The Administrator determines state eligibility solely on this single response.

Thomasville is at a loss to understand why the Administrator was unable to independently research clear state statute and grant eligibility status to Pre-K students and facilities, and Head Start students and facilities. With this appeal we ask the Commission to instruct the Administrator to accept factual information concerning state law from a variety of sources rather than a single letter to the State Education Agency. Further, the Administrator should be staffed adequately to conduct thorough research of statutes from each state and territory. The monetary impact on Georgia schools and libraries from this inaccurate determination could reach millions of dollars per year.

De minimis Exemption

Alternatively, Thomasville asks the Commission to overturn this decision on the basis of the de minimis exemption expressed in the Commission’s Third Report and Order.² Numerous commentors urged the Commission to set the de minimis level at \$1,000 or more. To date, the Commission has not set a dollar amount. Thomasville asks that the Commission take this

¹ 591-2-1-.01 Georgia's Pre-K Program at 1.

² Third Report and Order and Second Notice of Proposed Rulemaking, FCC 03-323, Rel. December 23, 2003 at 82.

opportunity to set the de minimis recovery threshold at \$727 and overturn the Administrator decision.

Conclusion

Thomasville City Public Schools asks the Administrator to overturn the Commitment Adjustment Decision based on Georgia statute. Alternatively, Thomasville asks that the recovery amount be considered de minimis.

Respectfully Submitted this 28th Day of July 2009,

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