

**CAPITOL WEST ACADEMY**  
3939 North 88th Street  
Milwaukee, WI 53222  
Phone 414-465-1355 • Fax 414-465-1319  
E-mail [dweber@cwacademy.org](mailto:dweber@cwacademy.org)

April 25, 2011

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

Re **CC Docket No. 02-6**  
Petition for Waiver  
FCC Form 471 No. 769423  
Applicant: Capitol West Academy, BEN 16058290

Dear Ms. Dortch,

With this letter Capitol West Academy ("CWA") requests a waiver of the FCC Form 471 filing window deadline for Funding Year 2010 under the schools and libraries universal service support mechanism (E-Rate).

**Background**

CWA is a tuition-free public charter school open to all City of Milwaukee children. Our teaching focuses on reading, language arts, math and science and on analyzing content and making sound decisions. We follow a character-based curriculum that teaches responsibility, communication and social decision-making.

Due to staff changes, as the 2010 window-close deadline neared CWA had no staff member who was familiar with the details of the maintenance requirements for the school's Internal Connections equipment and how those requirements were to be documented on the FCC Form 470. As a result (and in order to comply with the Form 470 28-day posting requirement), we submitted our Form 471 Funding Application for Basic Maintenance funding 14 days after the window-close date.

**Analysis**

CWA filed its FCC Form 471 on 3/5/2010, within 14 days of the filing window deadline. To the best of our knowledge, our E-rate funding application is otherwise in full compliance with all FCC rules and USAC requirements.

In *Academy for Academic Excellence*<sup>1</sup>, the Wireline Competitions Bureau (“Bureau”) found that in cases where a delayed Form 471 filing came as a result of circumstances beyond the control of the applicant, the complete rejection of these applications was not warranted, given that the violation at issue was procedural, not substantive. The Bureau found further that rigid adherence to filing procedures would not further the purposes of section 254(h) of the Telecommunications Act of 1996 or serve the public interest.

In *Acorn Public Library District*<sup>2</sup>, the Bureau found that a delayed Form 471 filing of not more than 14 days after the filing window deadline was not likely to impede USAC’s ability to administer the E-rate program. The Bureau found that the violation at issue was procedural, not substantive, and the Bureau found further that complete rejection of each of these applications is not warranted. The Bureau also found that (in the absence of any evidence of waste, fraud, or abuse, misuse of funds, or a failure to adhere to core program requirements and) because the FCC Form 471 was filed within 14 days after the filing window deadline, it was in the public interest to waive the FCC Form 471 deadline.

And in *Academy of Math and Science*<sup>3</sup>, the Federal Communications Commission reiterated that filing of Form 471 late but within 14 days of the filing window deadline is a special circumstance which justifies the grant of a waiver.

Finally, we note that denial of our funding request would impose severe hardship upon CWA, and the effect of such denial would be a profound adverse impact upon the educational services we provide for our students. The consequences of a denial of funding would not further the purposes of section 254(h) of the Telecommunications Act of 1996 or serve the public interest.

### **Request for Waiver**

For the reasons stated in this letter, CWA respectfully requests that the Federal Communications Commission grant a waiver of the FCC Form 471 filing window deadline for its Funding Year 2010 E-rate funding application.

CAPITOL WEST ACADEMY



Donna M. Niccolai-Weber  
Executive Director

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<sup>1</sup> FCC Order DA 07-1180

<sup>2</sup> FCC Order DA 08-2376

<sup>3</sup> FCC Order 10-122

«APPLICANT\_NAME»  
«Applicant\_address1»  
«Applicant\_city», «Applicant\_state» «Applicant\_ZIP»  
Phone «Applicant\_phone» • Fax «Applicant\_fax»  
E-mail «Applicant\_email»