

**Before the  
Federal Communications Commission**

In the Matter of the	)	File No. SLD -
	)	
Appeal of the Decision of the	)	
	)	
Universal Service Administrator by	)	
the	)	02-6
	)	
Spring Cove School District	)	

ADDENDUM  
Request for Expedited Relief

December 14, 2011

(1) **Funding Commitment Decision Letter Appealed**

Form 471 Application Number:	756389
Funding Year 13:	07/01/2010-06/30/2011
BEN:	125609
Date of Funding Denial Notice:	June 29, 2010
<b>Date of Appeal:</b>	<b>August 9, 2010</b>

(2) **Appeal Contact Information**

Nathaniel Hawthorne, Attorney  
Ste 265-27600 Chagrin Blvd.  
Cleveland Ohio 44122-4449  
Tel. (216) 514-4798  
Fax. (216)472-8184

FRN 2044562

This is a request for permission to add a supplement to an appeal regarding the denial of funding for web hosting services for the Spring Cove School District. The appeal was filed August 9, 2009 for FRN 2044562.

It is in the public interest to review this amendment, as the discussion below will underscore an inconsistency between the ways the Schools and Libraries Division (SLD)

and Universal Service Administrative Company (USAC) make eligibility determinations for web hosting services.

The USAC denied funding for webhosting services for Spring Cove on June 29, 2010. Funding was denied because “30% or more of this FRN includes a request for Schoolnet Outreach Product Licensing Fee which is an ineligible product(s)/service(s) based on program rules.”

Schoolnet is the name of the vendor that supplies Outreach, a web hosting service for Spring Cove. Outreach, includes bandwidth, disk space for applicant provided content, and FTP, the elements that compose the web hosting capability of Schoolnet’s service, as well as the software applications that enable the various features of the webhosting service Schoolnet offers. The Schoolnet license fee pays for the web hosting capability of Schoolnet’s service as well as software applications. While the web hosting capability is considered eligible, software is not.

But upon examination of an illustration provided by the SLD of how an ineligible web hosting service can be funded, it is not clear that the distinction between eligible and ineligible features in the webhosting context is a meaningful one. The illustration can be found in the “Schools and Libraries News Brief”, dated April 10, 2009, and is as follows:

“A school subscribes to an online student information system (SIS) for \$1000 per month. The application portion of the service was and will remain ineligible. But typically, such a service would also include supporting public or private webhosting capability. As a result, many of the providers of these services had worked out an allocation formula with the SLD making a percentage of the service eligible. Somewhat

surprisingly, this percentage was often as high as 80-90% (or in this example, making \$800-900 per month eligible).”

If an applicant can get ineligible web hosting services 80-90% funded because of the underlying webhosting capability that facilitates the services, isn't the FCC substantially funding all aspects of webhosting, regardless of the eligibility of various web hosting features?

How can a license for a web hosting service like Outreach be greater than or equal to 30% ineligible when perhaps 80-90% of what the license pays for is the web hosting capability that supports the various software applications or features offered by Outreach?

The example above involving student information systems suggests that the webhosting capability underlying a web hosting service is responsible for the majority of the web hosting functionality. The applications needed to facilitate ineligible services such as student information systems appear to only account for 10-20% of the functionality of a web hosting service, according to the SLD.

In a practical sense, the student information systems commentary has the effect of blurring the line between what is eligible and ineligible in the web hosting context. Would it not be more efficient to simply fund all web hosting services that can be used to facilitate education?

It seems unfair that some applicants who ask for student information systems (SIS) in the webhosting context would be turned down, while others who work out a cost-allocation methodology with the SLD to separate eligible from ineligible web hosting features would be able to get student information systems 80-90% funded based on the

underlying web hosting capability that facilitates SIS service. Note that SIS service cannot be greater than or equal to 30% ineligible if 80-90% of SIS service is accounted for by the eligible web hosting capability that powers the service.

Another situation that seems unfair is one in which an applicant like the Spring Cove School District, who applies for funding for a license to use web hosting services, would be completely turned down because the district failed to work out a cost allocation formula with the SLD before applying for funding. Again, how can a license for web hosting services be greater than or equal to 30% ineligible when it is possible that 80-90% of what the license pays for is an eligible web hosting capability that supports various web hosting applications or features?

All E-rate applicants applying for web hosting services must pay for licenses, and part of a license fee pays for the eligible web hosting capability that facilitates the use of all web hosting services. License fees enable users to take advantage of features that are eligible (e.g., bandwidth, FTP, and disk storage for applicant provided content) and ineligible (e.g., software applications that support the use of web hosting services).

If, in fact, an eligible webhosting capability makes up 80-90% of ineligible web hosting services, then it seems an applicant asking for funding for a license to use webhosting is asking for a package of services that are 80-90% eligible.

On this basis, please reverse the decision of the USAC not to provide web hosting funding for Spring Cove for FRN 2044562 for the 2009 E-rate year. Thank you for your attention.

/S/Nathaniel Hawthorne  
Nathaniel Hawthorne, Attorney/Consultant, Ltd  
Nathaniel Hawthorne

Natalie Hawthorne  
27600 Chagrin Blvd., Ste. 265  
Cleveland, OH 44122  
tel.: 216/514.4798  
*e-mail: nhawthorne@telecomlawyer.com*

Attorneys for Spring Cove School District

Cc: Spring Cove School District