

**Before the
Federal Communications Commission
Washington DC**

In the Matter of:

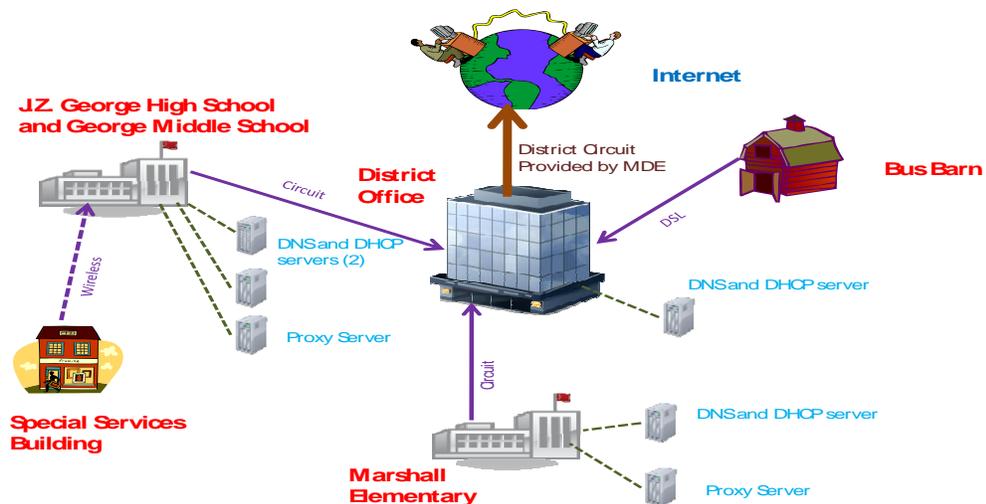
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Request for Review of decision)	
by the Schools and Libraries Division)	Administrator Correspondence Dated
for the Carroll County School District)	January 24, 2012
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)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	

Request for Review or Waiver

Carroll County School District,
BEN: 128591
FCC RN: 0011711397
Form 471 Number: 814909
Funding Request Numbers: 2215312

Background

Carroll County School District submitted a Form 471 for Funding Year 2011. They requested Basic Maintenance for eligible Internal Connection equipment located in two buildings. One of the buildings is a combination High School/Middle School and the other building is the District Office that serves as the District Network Hub. The District has a Special Services Building that connects to the High School/Middle School via a District-owned wireless connection. The District also has a Bus Shop that is connected via DSL circuit to the District Office. A network Diagram is below. During PIA review it was determined that the Bus Shop and the Special Service Buildings were not eligible to receive Priority 2 Services and the District was required to cost allocate the portion of the funding request that would serve those two entities. The funding request was reduced from \$17,133 to \$10,279, a reduction of \$6,853.



Discussion

USAC’s decision to deny was based upon language we find in FCC rules and orders. One such order is the FCC’s Fourth Order on Reconsideration, FCC 97-420, that was released December 30, 1997. Paragraph 209 states, “*We take this opportunity to make clear, on our own motion, that the Order limits support for internal connections to those essential to providing connections within instructional buildings. Thus, discounts are not available for internal connections in non-instructional buildings of a school district or administrative building of a library unless those internal connections are essential for the effective transport of information to an instructional building or library.*”

The FCC again provided clarification when the Third Report and Order was released December 23, 2003. In that order we were shown where Section 54.506, Subparagraph (a) states the following: “*A service is eligible for support as a component of an institution’s internal connections if such service is necessary to transport information within one or more instructional buildings of a single school campus or within one or more non-administrative buildings that comprise a single library branch. Discounts are not available for internal connections in non-instructional buildings of a school or school district, or in administrative buildings of a library, to the extent that a library system has separate administrative buildings, unless those internal connections are essential for the effective transport of information to an instructional building of a school or to a non-administrative building of a library.*”

Historically, the way this rule has been interpreted by both applicants and service providers is that Priority 2 services could not be purchased and installed in a Non-Instructional Facility (NIF) that was not functioning as a network hub. The FCC’s wording was taken quite literally, “*Thus, discounts are not available for internal connections in non-instructional buildings of a school*

district... ”. Carroll County School District was not requesting funding for any services located in the Bus Shop or in the Special Services Building. They were requesting funding for equipment located in facilities eligible for Priority 2 services. But, because the eligible equipment was used to provide services to the Non-Instruction Facilities that part of the service was determined to be ineligible.

To restate what this means to applicants:

- An applicant cannot seek Priority 2 funding (fiber or cable) to connect a school to a NIF if that NIF is not functioning as a network hub
- An applicant cannot seek Priority 2 funding (including Basic Maintenance) for any equipment that is used to serve a downstream (in the network) NIF without performing a cost allocation to remove all costs associated with the NIF

Remediation

On April 30, 2003 the FCC issued the Second Report and Order, FCC 03-101. In that order we find paragraphs 17, 19, 20, and 21 which state:

17. Educational Purpose. We find it appropriate to clarify the scope of the requirement that services be used for an educational purpose. Accordingly, we amend section 54.500 of our rules to clarify the meaning of educational purposes. Pursuant to this requirement, the Administrator has denied requests for services to be used by support staff not involved in instructional activities. We reiterate our recognition that the technology needs of participants in the schools and libraries program are complex and unique to each participant. We find that, in the case of schools, activities that are integral, immediate, and proximate to the education of students, or in the case of libraries, integral, immediate, and proximate to the provision of library services to library patrons, qualify as educational purposes under this program. To guide applicants in preparing their applications and to streamline the Administrator’s review of applications, we further establish a presumption that activities that occur in a library or classroom or on library or school property are integral, immediate, and proximate to the education of students or the provision of library services to library patrons.

19. Under this standard, reasonable requests for any supported service – over any technology platform – to be used by any school or library staff while in a library, classroom, or on school or library property, shall be eligible for discounts. Moreover, we conclude that in certain limited instances, the use of telecommunications services offsite would also be integral, immediate, and proximate to the education of students or the provision of library services to library patrons, and thus, would be considered to be an educational purpose. By adopting this standard, we provide to schools and libraries and the state and local authorities that govern them a more definitive interpretation of educational purposes, in order to assist them in pursuing their programmatic objectives.

20. *We find that our clarification is consistent with statutory mandates that the purpose for which support is provided be for educational purposes in a place of instruction. Moreover, this clarification benefits applicants because it simplifies the application process by making the approval of discounted services more predictable, without sacrificing flexibility, thus furthering our streamlining goals. Because of the difficulties inherent in implementing changes in eligibility in the middle of a funding cycle, services will be available under this clarification beginning with the start of the next funding year (Funding Year 2004), on July 1, 2004.*

21. *We believe that this interpretation of educational purpose should not result in an increase in waste, fraud, or abuse. First, as the presumption set forth above demonstrates, discounts will only be awarded to support activities that have a defined nexus to education, or, in the case of libraries, to the delivery of library services to library patrons. Thus, for instance, using a school's or a library's discounted telecommunications services to support a private enterprise or a political campaign will continue to be a violation of the Act and our rules. In addition, because our rules require schools and libraries to pay a percentage of the cost of services, schools and libraries are unlikely to request services that are not economical. This is particularly true in an environment where many institutions face shrinking budgets. We therefore conclude this clarification of educational purpose should increase program efficiency without leading to waste, fraud, or abuse.*

With the Second Report and Order, the FCC has established the precedent that even though “*the Administrator has denied requests for services to be used by support staff not involved in instructional activities*”, experience has taught us that “*activities that are integral, immediate, and proximate to the education of students, or in the case of libraries, integral, immediate, and proximate to the provision of library services to library patrons, qualify as educational purposes under this program*”.

The FCC says it best: “*We find that our clarification is consistent with statutory mandates that the purpose for which support is provided be for educational purposes in a place of instruction. Moreover, this clarification benefits applicants because it simplifies the application process by making the approval of discounted services more predictable, without sacrificing flexibility, thus furthering our streamlining goals.*”

If applicants were to perform a cost allocation based upon computers used at these Non-Instructional Facilities, rather than a building allocation as USAC used in their cost allocation, then the cost allocation would have minimal impact on the funding. Though the financial impact may be small, depending upon the number of NIFs, the administrative burden would be tremendous. Any applicant making a request for any Priority 2 services would first have to determine if there were any downstream Non-Instructional Facilities, and if there were, a cost allocation would have to take place. This additional step would certainly contradict the FCC's objective of : “*Moreover, this clarification benefits applicants because it simplifies the application process by making the approval of discounted services more predictable, without sacrificing flexibility, thus furthering our streamlining goals.*”

Request

I would like to request a Waiver that would allow Carroll County School District to obtain funding for their request of Basic Maintenance on equipment that is used to provide services to the District's Special Services Building and to the District's Bus Shop. I would further request that the FCC, in accordance with the Second Report and Order, direct USAC to clarify that Priority 2 services that serve Non-Instructional Facilities should not be cost allocated. This request is not for the purpose of making eligible any Priority 2 services installed within a NIF.

Respectfully submitted on March 14, 2012,

Gary Rawson

State E-rate Coordinator for Mississippi

On Behalf of Applicant

Carroll County School District