CC DOCKET NO. 02-6 IN THE MATTER OF REQUEST FOR WAIVER BY MARY SEAT OF WISDOM
CC DOCKET NO. 96-45 OF THE DECISION OF THE UNIVERSAL SERVICE ADMINISTRATOR

ColemanGroup
MANAGEMENT CONSULTING

FCC
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

233 South Wacker Drive, Suite 3430
Chicago, IL 60606
P 312.850.4134 F 312.893.2038
www.colemangroupconsulting.com

Attached is an Appeal to the Federal Communications Commission for Mary Seat Of Wisdom School [BEN: 68493]. The purpose of this document is to appeal the Universal Service Administrative Company's decision to deny our original appeal. In this decision, the Universal Service Administrative Company (USAC) denied Mary Seat Of Wisdom School's request to waive the Form 486 Filing Deadline. The reason provided for why the appeal was denied is that the appeal was postmarked more than 60 days after the Form 486 Notification Letter was issued.

The FCC has decided rejection or reduction of ERate applications whose applicants did not submit a timely FCC Form 486 is not warranted, given that the applicants missed a USAC procedural deadline and did not violate a Commission rule. By granting this limited waiver of the deadline, they believe they will provide for a more effective application processing system that ensures eligible schools and libraries will be able to realize the intended benefits of the program. The following FCC Decisions have ruled in favor of waiving the deadline for filing the Form 486:

- Archdiocese of Chicago School, et al., File Nos. SLD-766468, et al., DA 12-28, Order, 27 FCC Rcd 200
- Academy St. Benedict Stewart, et al., File Nos. SLD-660086, et al., DA 10-2352, Order, 25 FCC Rcd 17309
- Alaska Gateway School District - File Nos. SLD-412028, et al., DA 06-1871, Order, 21 FCC Rcd 10182

Electronic Code of Federal Regulations C.F.R. 47 §1.3 states that The Commission may waive any provision of its rules for good cause shown. We will demonstrate (i) special circumstances that warrant a deviation from the general rule, and (ii) such deviation will serve the public interest.

Please let me know if you have any questions, or if there is any additional information I can provide. We greatly appreciate your consideration of our Request For Waiver. Thank you for your time, effort, patience, and continued support of Mary Seat Of Wisdom School.

Stephen Weiss
312-850-4134 x107 (w)
630-430-7342 (cl)
sweiss@colemangroupconsulting.com

# TABLE OF CONTENTS

I) Application For Review By The Federal Communications Commission

(1) A Statement setting forth Mary Seat Of Wisdom School's interest in the matter presented for review. [Page 3]

(2) A full statement of relevant, material facts with supporting affidavits and documentation. [Pages 3 - 5]

(3) The question presented for review, with reference, where appropriate, to the relevant Federal Communications Commission rule, Commission order, or statutory provision. [Page 6]

(4) A statement of the relief sought and the relevant statutory or regulatory provision pursuant to which such relief is sought. [Pages 6 - 7]

II) Documentation of Prior Appeals and Correspondence [In Reverse Chronological Order]

(1) The Administrator's Decision on Appeal for the original appeal filed directly with USAC on behalf of Mary Seat Of Wisdom School [Pages 8 - 9]

(2) Archdiocese of Chicago School, et al., File Nos. SLD-766468, et al., DA 12-28, Order, 27 FCC Rcd 200 [Pages 10 – 13]

(3) Academy St. Benedict Stewart, et al., File Nos. SLD-660086, et al., DA 10-2352, Order, 25 FCC Rcd 17309 [Pages 14 - 19]

(4) Alaska Gateway School District - File Nos. SLD-412028, et al., DA 06-1871, Order, 21 FCC Rcd 10182 [Pages 20 – 35]

**Before the**
**FEDERAL COMMUNICATIONS COMMISSION**
**Washington, DC 20554**

| | | |
|---|---|---|
| In the Matter of | ) | |
| Request for Waiver by Mary Seat Of Wisdom | ) | |
| Of Decision Of | ) | |
| Universal Service Administrator | ) | |
| | ) | |
| Mary Seat Of Wisdom School | ) | |
| Park Ridge, Illinois | ) | |
| | ) | |
| Schools and Libraries Universal Service | ) | CC Docket No. 02-6 |
| Support Mechanism | ) | CC Docket No. 96-45 |

**(1) A Statement setting forth Mary Seat Of Wisdom School's interest in the matter presented for review.**

In this matter presented for review, Mary Seat Of Wisdom School is the sole appellant organization. Mary Seat Of Wisdom School is seeking an Request for Waiver by the Federal Communications Commission. Mary Seat Of Wisdom School wishes to seek consideration of the Universal Administrative Service Company's decision to deny our original appeal.

**(2) A full statement of relevant, material facts with supporting affidavits and documentation.**

Appellant / Organization Name: MARY SEAT OF WISDOM SCHOOL
Contact Person Name: Stephen Weiss
Contact Mailing Address: 233 S. Wacker Dr. Suite 3430, Chicago, IL
Contact Phone Number: 312-850-4134
Contact Fax Number: 312-893-2038
Contact Email Address: sweiss@colemangroupconsulting.com

Funding Year: 2011
Dates of FCDL Decisions: 7/6/11
Billed Entity Name: MARY SEAT OF WISDOM SCHOOL
Billed Entity Number: 68493
Form 471 Application Numbers: 821901

Funding Request #1

Funding Request Number: 2238515
SPIN Code: 143001912
Committed Commitment Request: $925.49
Actual Expenses for Funding Year: $2,313.72

Funding Request #2
Funding Request Number: 2238521
SPIN Code: 143003990
Committed Commitment Request: $935.76
Actual Expenses for Funding Year: $2,339.40

Section III of the Instructions for Completing the Schools and Libraries Universal Service Receipt of Service Confirmation Form [Filing Requirements and General Instructions] states as follows:

- The complete Form 486 – with Certification – MUST be received by USAC, submitted online or postmarked no later than 120 days after the Service Start Date featured on the Form 486 or no later than 120 days after the date of your FCDL, whichever is later, in order to receive discounts retroactively to the Service Start Date. If the Form 486 is postmarked later than the deadline, the date 120 days before the Form 486 postmark date will become the service start date for discounted services on those FRN's featured on the Form 486. USAC will not provide discounts for the services rendered prior to the new start date and will reduce the funding commitment for the relevant FRN as appropriate.

We would like to ask USAC to make an exception for MARY SEAT OF WISDOM SCHOOL for the following reasons:

1. Under Commission precedent in the Alaska Gateway Order and subsequent orders[1], complete rejection of ERate applications whose applicants failed to submit timely Forms FCC 486 is not warranted, given that the applicants missed a USAC procedural deadline and did not violate a Commission rule.

- In our appeal on behalf of MARY SEAT OF WISDOM SCHOOL, we were late according to the 486 procedural deadline, but did not violate any Commission rules.

[1] See Request for Review of the Decision of the Universal Service Administrator by Alaska Gateway School District, Schools and Libraries Universal Service Support Mechanism, File Nos. SLD-412028, et al., DA 06-1871, Order, 21 FCC Rcd 10182 (Wireline Comp. Bur. 2006) (Alaska Gateway Order). See also Requests for Review and/or Waiver of the Decisions of the Universal Service Administrator by Archdiocese of Chicago School, et al., Schools and Libraries Universal Service Support Mechanism, File Nos. SLD-766468, et al., DA 12-28, Order, 27 FCC Rcd 200 (Wireline Comp. Bur. 2012); See also Requests for Review and/or Waiver of the Decisions of the Universal Service Administrator by Academy St. Benedict – Stewart, et al., Schools and Libraries Universal Service Support Mechanism, File Nos. SLD-660086, et al., DA 10-2352, Order, 25 FCC Rcd 17309 (Wireline Comp. Bur. 2010).

2. Under the same precedent, waivers of filing deadlines were granted because they submitted their appeals to the Commission within a reasonable period of time after receiving actual notice of USAC's adverse decision, or because of circumstances beyond the applicants' control.

- Our attempts to process the electronic certifications for the Form 486s have generated errors on the USAC website approximately 50% of the time.

3. Under the same precedent, requests for Review and/or Requests for Waiver were granted, and the applications were remanded to USAC for further consideration.

**(i) Special circumstances that warrant a deviation from the general rule**

There are 2 sets of circumstances that warrant a deviation from the general rule:

- We went through a process to re-document our compliance with CIPA
- We chose not to file a BEAR asking for the entire commitment amount in order to force a BEAR denial letter that could be appealed within 60 days

In preparation for the effective date of the Protecting Children in the 21st Century Act, we went through an internal process to re-document our compliance with CIPA. We waited until the documentation was completed prior to completing the Form 486.

In order to force a USAC decision that can be appealed within 60 days, we could have filled out our BEAR Form 472 with the total remaining commitment (regardless of the Form 486 date) amount in Block 1 Number 8 and Block 2 Number 15. The BEAR would have been denied because the amount we would have asked for in the BEAR would have been too high. We would then file a subsequent BEAR with the dollar amounts reduced proportionately to match the Form 486 Date we currently have. However, we decided it would not be an efficient use of both USAC's time and our time to go through those extra steps. Therefore we filed the proportionately reduced BEAR and moved straight to the appeal process.

**(ii) Deviation from the general rule will serve the public interest.**

Mary, Seat of Wisdom School has served the Park Ridge, Illinois community for over 50 years. Knowing that all students learn best when they feel secure, MSW teachers, administrators and parents work closely together to provide a safe and nurturing learning environment with a strong Catholic identity. Our mission, "to empower our students with the knowledge, values, and skills which will enable them to become active participants and effective leaders in both the church and world community," serves as

the touchstone for everything we do. At its core, the development of the whole child includes the fostering of faith, and goes beyond a basic religion curriculum. Instruction includes a rich sacramental program with discussion of theological doctrine and experiences designed to encourage students to follow Christ as a way of life.

The MSW community has a strong social consciousness and works to raise students' awareness of the needs of others in the broader world community. MSW students are from middle to upper middle class households from both suburban and city communities. MSW teaches children that with blessings come responsibilities, and each year the Catholic Identity theme puts an emphasis on social outreach to the poor in the surrounding communities, the nation, and the world. This year's all-school service learning project, H2O for Life, provides MSW students with a global vision as they connect with a partner school in Africa, to raise funds which will provide a clean water source for that school.

**(3) The question presented for review, with reference, where appropriate, to the relevant Federal Communications Commission rule, Commission order, or statutory provision.**

Mary Seat Of Wisdom School received the Universal Service Administrator's Decision on Appeal. The decision states as follows:

- Our records show that your appeal was postmarked more than 60 days after your date your Form 486 Notification letter was issued, as shown above. Federal Communications Commission (FCC) rules require applicants to postmark appeals within 60 days of the date on the decision letter being appealed. FCC rules do not permit the Universal Service Administrative Company (USAC) to consider your appeal.

Electronic Code of Federal Regulations C.F.R. 47 §1.3 states that The Commission may waive any provision of its rules for good cause shown. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest[6]. In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. Consistent with precedent[7], we have demonstrated (i) special circumstances that warrant a deviation from the general rule, and (ii) such deviation will serve the public interest.

---

[6] *Northeast Cellular Telephone Co. v FCC, 897 F.2d 1164, 1168*6

[7] *NetworkIP, LLC v. FCC, 548 F.3d 116, 125-12*

**(4) A statement of the relief sought and the relevant statutory or regulatory provision pursuant to which such relief is sought.**

Mary Seat Of Wisdom School seeks relief from the Universal Service Administrator's decision. In that decision our request to waive a Form 486 deadline because our appeal was postmarked more than 60 days after the date of our Form 486 Notification letter.

Mary Seat Of Wisdom School filled out their BEAR Form 472 with the proportionately reduced commitment amount in Block 1 Number 8 and Block 2 Number 15. We would like to go back and submit an additional BEAR form for the remainder of the appropriate proportion of the commitment amount (subsequent to being adjusted for our actual expenses).

Thank you once again for taking the time to consider this appeal for Mary Seat Of Wisdom School. Please let me know if you have any questions. Thank you very much for all of your help. We greatly appreciate your time, effort, patience and continued support.

**Administrator's Decision on Appeal – Funding Year 2011-2012**

October 22, 2012

Stephen Weiss
Coleman Group Consulting
134 North Lasale Street Suite 1400
Chicago, IL 60602-1181

| | | |
|---|---|---|
| Re: | Applicant Name: | MARY SEAT OF WISDOM SCHOOL |
| | Billed Entity Number: | 68493 |
| | Form 471 Application Number: | 821901 |
| | Funding Request Number(s): | 2238515, 2238521 |
| | Decision Letter Date: | January 25, 2012 |
| | Date Appeal Postmarked: | October 15, 2012 |
| | Your Correspondence Dated: | October 15, 2012 |

Our records show that your appeal was postmarked more than 60 days after the date your Form 486 Notification Letter was issued, as shown above. Federal Communications Commission (FCC) rules require applicants to postmark appeals within 60 days of the date on the decision letter being appealed. FCC rules do not permit the Universal Service Administrative Company (USAC) to consider your appeal.

If you believe there is a basis for further examination of your application, 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 POSTMARKED within 60 days of the above 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.

Schools and Libraries Division
Universal Service Administrative Company

Stephen Weiss
Coleman Group Consulting
134 North Lasale Street Suite 1400
Chicago, IL 60602-1181

Billed Entity Number: 68493
Form 471 Application Number: 821901
Form 486 Application Number:

**Before the**
**Federal Communications Commission**
**Washington, DC 20554**

| | | |
|---|---|---|
| In the Matter of | ) | |
| | ) | |
| Requests for Review and/or Waiver of Decisions of the Universal Service Administrator by | ) | |
| | ) | |
| Archdiocese of Chicago School Chicago, Illinois, *et al.* | ) | File Nos. SLD-766468, *et al.* |
| | ) | |
| Schools and Libraries Universal Service Support Mechanism | ) | CC Docket No. 02-6 |

**ORDER**

**Adopted: January 12, 2012** **Released: January 12, 2012**

By the Deputy Chief, Telecommunications Access Policy Division, Wireline Competition Bureau:

1. Consistent with the Commission's precedent in the *Alaska Gateway Order,* [1] we grant 22 appeals of decisions by the Universal Service Administrative Company (USAC) that reduce or deny funding from the E-rate program for various funding years because USAC found that the applicants failed to timely submit FCC Forms 486.[2] Based on our review of the record, we find that the same analysis in the *Alaska Gateway Order* applies here, and we remand the underlying applications to USAC to allow the applicants another opportunity to file their FCC Forms 486. We also waive any Commission or USAC procedural deadline, such as the invoicing deadline, that might be necessary because the FCC Forms 486 of these applicants were initially rejected. To ensure that the underlying applications are resolved expeditiously, we direct USAC to complete its review of each application listed in the appendix and issue an award or a denial based on a complete review and analysis no later than 90 calendar days from its receipt of the requested information. We also grant two petitioners waivers of our filing deadline[3] for appeals because we find they submitted their appeals to the Commission within a reasonable period of time after receiving actual notice of USAC's adverse decision.[4]

2. ACCORDINGLY, IT IS ORDERED, pursuant to the authority contained in sections 1-4

---

[1] *See Request for Review of the Decision of the Universal Service Administrator by Alaska Gateway School District, Schools and Libraries Universal Service Support Mechanism,* File Nos. SLD-412028, *et al.*, CC Docket No. 02-6, Order, 21 FCC Rcd 10182 (Wireline Comp. Bur. 2006) (*Alaska Gateway Order*). *See also Requests for Review and/or Waiver of the Decisions of the Universal Service Administrator by Academy St. Benedict – Stewart, et al., Schools and Libraries Universal Service Support Mechanism,* File Nos. SLD-660086, *et al.*, CC Docket No. 02-6, Order, 25 FCC Rcd 17309 (Wireline Comp. Bur. 2010).

[2] See appendix. Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of USAC may seek review from the Commission. 47 C.F.R. § 54.719(c) (2011). The E-rate program is more formally known as the schools and libraries universal service support program.

[3] *See* 47 C.F.R. § 54.720.

[4] Request for Waiver by Idabel School District 5 and Request for Waiver by Otsego Nothern Catskills BOCES.

and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and pursuant to authority delegated in sections 0.91, 0.291, 1.3 and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3 and 54.722(a), that the Requests for Review and/or Requests for Waiver filed by the petitioners as listed in the appendix ARE GRANTED and the underlying applications ARE REMANDED to USAC for further consideration in accordance with the terms of this order.

3. IT IS FURTHER ORDERED, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 1.3 of the Commission's rules, that section 54.720(a) of the Commission's rules, 47 C.F.R. § 54.720(a), ARE WAIVED for Idabel School District 5, Idabel, Oklahoma and Otsego Northern Catskills BOCES, Cicero, New York to the extent necessary as provided herein.

FEDERAL COMMUNICATIONS COMMISSION

Gina M. Spade
Deputy Chief
Telecommunications Access Policy Division
Wireline Competition Bureau

## APPENDIX

### List of Petitioners

| Applicant | Application Number | Funding Year | Date Appeal Filed |
|---|---|---|---|
| Archdiocese of Chicago School (Coleman Group Management Consulting) Chicago, IL | 766468 | 2010 | 10/31/2011 |
| Assumption of the Blessed Virgin Mary School, Pasadena, CA | 696142 | 2009 | 8/3/2011 |
| Assumption of the Blessed Virgin Mary School, Pasadena, CA | 760378 | 2010 | 8/3/2011 |
| Assumption Parish Library Napoleonville, LA | 554053 | 2007 | 10/30/2008 |
| Delta – Schoolcraft Intermediate School District, Escanaba, MI | 753439, 753688 | 2010 | 10/27/2011 |
| Flagstaff Unified School District Flagstaff, AZ | 714034 | 2010 | 10/31/2011 |
| Idabel School District 5 Idabel, Oklahoma | 718144 | 2010 | 10/21/2011 |
| Mitchell School District 55 Mitchell, OR | 747772 | 2010 | 11/14/2011 |
| Otsego Northern Catskills BOCES Cicero, NY | 718050 | 2010 | 7/5/2011 |
| Our Lady of Tepayac School Chicago, IL | 763863 | 2010 | 10/31/2011 |
| Pearce Elementary School District No. 22 Pearce, AZ | 754877 | 2011 | 9/20/2011 |
| Sacred Heart School Chicago, IL | 768122 | 2010 | 10/31/2011 |
| Springfield School District R-12 Springfield, MO | 751104 | 2010 | 8/17/2011 |
| St. Columbanus School Chicago, IL | 767857, 768385, 768688, 768747 | 2010 | 10/31/2011 |
| St. Cyprian School River Grove, IL | 768940 | 2010 | 10/31/2011 |
| St. Gabriel School Chicago, IL | 766495 | 2010 | 10/31/2011 |
| St. Helen School Chicago, IL | 764598 | 2010 | 10/31/2011 |
| St. Joseph 73rd Summit Summit, IL | 765762 | 2010 | 10/31/2011 |

| | | | |
|---|---|---|---|
| St. Luke School<br>River Forest, IL | 766074 | 2010 | 10/31/2011 |
| St. Patricia School<br>Hickory Hills, IL | 760867 | 2010 | 10/31/2011 |
| Wapanucka Independent School District 37<br>Ada, OK | 719689 | 2010 | 9/20/2011 |
| West Oak Lane Charter School<br>Philadelphia, PA | 762149 | 2010 | 10/6/2011 |

**Before the**
**Federal Communications Commission**
**Washington, DC 20554**

| | | |
|---|---|---|
| In the Matter of | ) | |
| | ) | |
| Requests for Review and/or Waiver of | ) | |
| Decisions of the Universal Service Administrator by | ) | |
| | ) | |
| Academy St. Benedict – Stewart | ) | File Nos. SLD-660086, *et al*. |
| Chicago, Illinois, *et al*. | ) | |
| | ) | |
| Schools and Libraries Universal Service | ) | CC Docket No. 02-6 |
| Support Mechanism | ) | |

**ORDER**

**Adopted: December 16, 2010** **Released: December 16, 2010**

By the Deputy Chief, Telecommunications Access Policy Division, Wireline Competition Bureau:

1. In this order, we grant 45 appeals of decisions by the Universal Service Administrative Company (USAC) that reduce or deny funding from the schools and libraries universal service support program (also known as the E-rate program) for various funding years because USAC found that the applicants failed to timely submit FCC Forms 486.[1] Consistent with the Commission's *Alaska Gateway Order*, [2] and based on our review of the record, we find that complete rejection of these applications is not warranted, given that the applicants missed a USAC procedural deadline and did not violate a Commission rule. Therefore, we remand the underlying applications to USAC for further action consistent with this order. To ensure that the underlying applications are resolved expeditiously, we direct USAC to complete its review of each application listed in the appendices and issue an award or a denial based on a complete review and analysis no later than 90 calendar days from release of this order.

2. We also grant 14 petitioners waivers of our filing deadline[3] for appeals because we find they submitted their appeals to the Commission within a reasonable period of time after receiving actual notice of USAC's adverse decision,[4] or because of circumstances beyond the applicants' control.[5]

---

[1] In this order, we use the term "appeals" to generally refer to requests for review or waiver that are related to decisions issued by USAC. Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of USAC may seek review from the Commission. 47 C.F.R. § 54.719(c).

[2] *Request for Review of the Decision of the Universal Service Administrator by Alaska Gateway School District, Tok, AK, et al., Schools and Libraries Universal Service Support Mechanism,* File Nos. SLD-412028, *et al.*, CC Docket No. 02-6, Order, 21 FCC Rcd 10182 (Wireline Comp. Bur. 2006) (*Alaska Gateway Order*) (finding good cause to waive USAC's deadline for FCC Form 486 for several applicants).

[3] *See* 47 C.F.R. § 54.720.

[4] Request for Review by Ahi Ezer Yeshiva School; Request for Review by Buckingham County Public Schools; Request for Waiver by Derry Co-Op School District; Request for Waiver by Newmarket School District (for FCC Form 471 application numbers 474136 and 584028); Request for Waiver by Newport School District; Request for Review by Long Beach Unified School District; Request for Review of Mitchell County Board of Education; Request for Review by Philadelphia School District; Request for Review by Westampton Township Public Schools; and Request for Review by Yeshivat Keter Torah.

3. ACCORDINGLY, IT IS ORDERED, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and pursuant to authority delegated in sections 0.91, 0.291, 1.3 and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3 and 54.722(a), that the Requests for Review and/or Requests for Waiver filed by the petitioners as listed in the appendices ARE GRANTED and the applications ARE REMANDED to USAC for further consideration in accordance with the terms of this order.

4. IT IS FURTHER ORDERED, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and sections 0.91, 0.291, 1.3 and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3 and 54.722(a), that waivers of section 54.720 of the Commission's rules, 47 C.F.R. § 54.720, ARE GRANTED to Ahi Ezer Yeshiva School, Buckingham County Public Schools, Derry Co-Op School District, Hancock Library System, Jemez Mountain School District, Long Beach Unified School District, Newmarket School District for FCC Form 471 Application Numbers 474136 and 584028, Newport School District, Philadelphia School District, Savannah River Challenge Program, School Administrative Unit #47, and Westampton Township Public Schools.

FEDERAL COMMUNICATIONS COMMISSION

Gina M. Spade
Deputy Chief
Telecommunications Access Policy Division
Wireline Competition Bureau

[5] Request for Waiver by Hancock Library System; Request for Review by Jemez Mountain School District; Request for Waiver by School Administrative Unit #47; and Request for Review by Savannah River Challenge Program.

## APPENDIX A

### List of Petitioners

| Applicant | Application Number | Funding Year | Date Appeal Filed |
|---|---|---|---|
| Academy St. Benedict – Stewart<br>Chicago, IL | 660086 | 2009 | 11/1/2010 |
| Ahi Ezer Yeshiva School<br>Brooklyn, NY | 508856 | 2006 | 1/21/2009 |
| Appoquinimink School District<br>Odessa, DE | See Appendix B | | |
| Buckingham County Public Schools<br>Buckingham, VA | 420166 | 2004 | 12/21/2005 |
| Cascade School District 5<br>(Willamette Education Service District)<br>Turner, OR | 584671 | 2007 | 4/29/2010 |
| City of Tavares Public Library<br>Tavares, FL | 666495 | 2009 | 4/14/2010 |
| Conemaugh Valley School District<br>Johnstown, PA | 448001 | 2005 | 4/4/2007 |
| Covina-Valley Unified School District<br>Covina, CA | 695134 | 2009 | 11/12/2010 |
| Cuba Independent School District<br>Cuba, MN | 555895 | 2007 | 7/12/2010 |
| Derry Co-Op School District<br>Derry, NH | 632694 | 2008 | 8/23/2010 |
| Elko County School District<br>Woodland Hills, CA | 665113 | 2009 | 7/21/2010 |
| Gila Bend Unified School District 24<br>Gila Bend, AZ | 673841 | 2009 | 5/17/2010 |
| Guntersville City School District<br>Guntersville, AL | 610659 | 2008 | 11/15/2010 |
| Hancock County Library System<br>Bay Saint Louis, MS | 354032, 393974, 479566, 483775, 534582, 581931, 635497 | 2003, 2004, 2005, 2006, 2007, 2008 | 6/10/2010 |
| Houston Public Library – Halan/IT Department<br>Houston, TX | 695460 | 2009 | 5/21/2010 |
| Jemez Mountain School District<br>Gallina, NM | 426990 | 2004 | 4/19/2007 |

| | | | |
|---|---|---|---|
| Long Beach Unified School District<br>Long Beach, CA | 293131 | 2002 | 8/9/2007 |
| Los Angeles Leadership Academy<br>Los Angeles, CA | 693174 | 2009 | 7/28/2010 |
| Mitchell County Board of Education<br>Camilla, GA | 430333 | 2004 | 5/23/2006 |
| Mount Holly TWP Public Schools<br>Mount Holly, NJ | 649872 | 2009 | 8/23/2010 |
| Nadaburg Elementary School District 81<br>Glendale, AZ | 693850 | 2009 | 5/3/2010 |
| Newmarket School District<br>Newmarket, NH | 474136 | 2005 | 8/23/2010 |
| Newmarket School District<br>Newmarket, NH | 584028 | 2007 | 8/23/2010 |
| Newport News School District<br>Lee, NH | 474136, 584844 | 2005,<br>2007 | 9/7/2010 |
| Ohio County Schools<br>Hartford, KY | 425705 | 2004 | 12/12/2006 |
| Ohio Valley Educational Service Center<br>Cambridge, OH | 674393 | 2009 | 6/23/2010 |
| Philadelphia School District<br>Philadelphia, PA | 562026 | 2007 | 11/20/2008 |
| Santa Ana Unified School District<br>Santa Ana, CA | 478400 | 2005 | 3/24/2008 |
| Savannah River Challenge Program<br>Sylvania, GA | 522953 | 2006 | 5/7/2008 |
| School Administrative Unit #47<br>Jaffrey, New Hampshire | 577389 | 2007 | 2/17/2009 |
| SS Cyril and Methodius School<br>Lemont, IL | 694212 | 2009 | 11/2/2010 |
| St. Andrew School<br>Chicago, IL | 678773 | 2009 | 11/2/2010 |
| St. Ann School<br>Chicago, IL | 687914 | 2009 | 11/2/2010 |
| St. Benedict High School<br>Chicago, IL | 652196 | 2009 | 11/2/2010 |
| St. Gregory High School<br>Chicago, IL | 689240 | 2009 | 11/2/2010 |
| St. Ladislaus School<br>Chicago, IL | 668663 | 2009 | 11/2/2010 |
| St. Louise De Marillac School<br>Chicago, IL | 680351 | 2009 | 11/2/2010 |

| | | | |
|---|---|---|---|
| St. Norbert School<br>Chicago, IL | 679407 | 2009 | 11/2/2010 |
| St. Richard School<br>Chicago, IL | 678640 | 2009 | 11/2/2010 |
| St. Walter School<br>Chicago, IL | 694970 | 2009 | 11/2/2010 |
| The Good Hope School<br>Croix, VI | 677964 | 2009 | 11/18/2010 |
| Tiferes Bnos-Yeshiva<br>Brooklyn, NY | 602139, 602147, 602155 | 2008 | 6/11/2010 |
| Val Verde Unified School District<br>Perris, CA | 669772, 670837, 670865, 670925, 688935, 689705 | 2009 | 11/2/2010 |
| Westampton Township Public Schools<br>Westampton, NJ | 499969 | 2006 | 12/10/2007 |
| Yeshivat Keter Torah<br>Lakewood, NJ | 533293 | 2007 | 6/8/2009 |

## APPENDIX B

**List of Applicants and Application Numbers Included in the Request for Waiver filed April 23, 2010 by Appoquinimink School District**

| Applicant Name | Application Number |
|---|---|
| Appoquinimink School District | 663280 |
| Academy of Dover | 671316 |
| Brandywine School District | 663453 |
| Ceasar Rodney School District | 663489 |
| Campus Community | 663524 |
| Cape Henlopen School District | 663541 |
| Capital School District | 663560 |
| Charter School of Wilmington | 663866 |
| Christina School District | 663891 |
| Colonial | 663991 |
| Delaware Military Academy | 664013 |
| Delmar | 664053 |
| Eastside Charter School | 664053 |
| Indian River School District | 664261 |
| Lake Forest School District | 664310 |
| Laurel School District | 664339 |
| Maurice J. Moyer Academy | 664356 |
| Milford School District | 664840 |
| Mot Charter School | 664895 |
| Newark Charter School | 664930 |
| New Castle County Voc Tech | 665065 |
| Poly Tech School District | 665090 |
| Providence Creek Academy | 675865 |
| Red Clay School District | 665152 |
| Seaford School District | 665479 |
| Smyrna School District | 665497 |
| Sussex Academy Arts & Sciences | 665522 |
| Sussex County Voc-Tech School District | 665541 |
| Thomas A. Edison Charter School | 664221 |
| Woodbridge School District | 665562 |

**Before the**
**Federal Communications Commission**
**Washington, DC 20554**

| | | |
|---|---|---|
| In the Matter of | ) | |
| | ) | |
| Requests for Review and Waiver | ) | |
| of the Decision of the | ) | |
| Universal Service Administrator by | ) | |
| | ) | |
| Alaska Gateway School District | ) | File Nos. SLD-412028, *et al*. |
| Tok, AK, *et al.* | ) | |
| | ) | |
| Schools and Libraries Universal Service | ) | CC Docket No. 02-6 |
| Support Mechanism | ) | |

**ORDER**

**Adopted: September 14, 2006** **Released: September 14, 2006**

By the Chief, Wireline Competition Bureau:

## I. INTRODUCTION

1. In this Order, we grant 128 appeals of decisions by the Universal Service Administrative Company (USAC) reducing or denying funding from the schools and libraries universal service support mechanism (also known as the E-rate program) on the grounds that they failed to timely submit an FCC Form 486.[1] As explained below, in each case we find that good cause exists to waive USAC's deadline for the FCC Form 486 filed with USAC and we remand the underlying applications associated with these appeals to USAC for further action consistent with this Order. To ensure that the underlying applications are resolved expeditiously, we direct USAC to complete its review of each application listed in the Appendix and issue an award or denial based upon a complete review and analysis no later than 90 days from the release of this Order. In addition, we direct USAC to develop targeted outreach procedures designed to better inform applicants of approaching FCC Form 486 filing deadlines and to provide applicants with a 15-day opportunity to file or amend the form.

2. As we recently noted, applicants seeking funding from the E-rate program contend that the application process is complicated and time-consuming.[2] As a result, a significant number of

[1]In this Order, we use the term "appeals" to generically refer to requests for review of decisions, or to waivers related to such decisions, issued by the Commission, the Wireline Competition Bureau, or USAC. A list of these petitions is attached in the Appendix and we will refer to all of these parties as Petitioners. Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. 47 C.F.R. § 54.719(c).

[2]*Comprehensive Review of Universal Service Fund Management, Administration, and Oversight, Federal-State Joint Board on Universal Service, Schools and Libraries Universal Service Support Mechanism, Rural Health Care Support Mechanism, Lifeline and Linkup, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.,* WC Docket Nos. 05-195, 02-60, 03-109, CC Docket Nos. 96-45, 02-6, 97-21, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, 20 FCC Rcd 11308 (2005) (*Comprehensive Review NPRM*).

applications for E-rate support are denied because of applicant ministerial or clerical errors. We find that the actions we take here to provide relief will promote the statutory requirements of section 254(h) of the Communications Act of 1934, as amended (the "Act"), by helping to ensure that eligible schools and libraries obtain access to discounted telecommunications and information services.[3] In particular, we believe that by directing USAC to enhance certain application outreach procedures and granting this limited waiver of the deadline, we will provide for a more effective application processing system that ensures eligible schools and libraries will be able to realize the intended benefits of the program as we consider additional steps to reform and improve the E-rate program.[4] Requiring USAC to take these additional steps will not reduce or eliminate any application review procedures or program requirements that applicants must comply with to receive funding. Indeed, we retain our commitment to detecting and deterring potential instances of waste, fraud, and abuse by ensuring that USAC continues to scrutinize applications and takes steps to educate applicants in a manner that fosters program participation. We also emphasize that our actions taken in this Order should have minimal impact on the Universal Service Fund (USF or Fund) because the monies needed to fund these appeals have already been collected and held in reserve.[5]

## II. BACKGROUND

3. Under the E-rate program, eligible schools, libraries, and consortia that include eligible schools and libraries may apply for discounts for eligible telecommunications services, Internet access, and internal connections.[6] After an applicant for discounted services under the E-rate program has entered into agreements for eligible services with one or more service providers, it must file an FCC Form 471 with USAC.[7] The FCC Form 471 notifies USAC of the services that have been ordered and supplies an estimate of funds requested for eligible services.[8] USAC then issues a funding commitment decision letter indicating the funding, if any, for which the applicant is approved to receive. After the funding year begins and the applicant begins receiving services at the discounted rate, the applicant submits an FCC Form 486 to USAC. The FCC Form 486 indicates that the service has begun, specifies the service start date and demonstrates that the applicant has received approval of its technology plans.[9] The timely

---

[3]47 U.S.C. § 254(h). The Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, amended the Communications Act of 1934.

[4]*Comprehensive Review NPRM*, 20 FCC Rcd at 11324-25, paras. 37-40 (seeking comment on the application process and competitive bidding requirements for the schools and libraries program).

[5]We estimate that the appeals granted in this Order involve applications for approximately $11.3 million in funding for Funding Years 2000-2005. We note that USAC has already reserved sufficient funds to address outstanding appeals. *See, e.g.,* Universal Service Administrative Company, Federal Universal Service Support Mechanisms Fund Size Projections for the Third Quarter 2006, dated May 2, 2006.

[6]*See* 47 C.F.R. §§ 54.501-54.503.

[7]*See* Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (December 1997) (Funding Year 1999 FCC Form 471); Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (September 1999) (Funding Year 2000 FCC Form 471); Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (October 2000) (Funding Year 2001 FCC Form 471); Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (November 2001) (Funding Year 2002 FCC Form 471); Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (October 2003) (Funding Year 2004 FCC Form 471); Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (November 2004) (Funding Year 2005 FCC Form 471) (collectively, FCC Form 471).

[8]47 C.F.R. § 54.504(c).

[9]Instructions for Completing the Schools and Libraries Universal Service, Receipt of Service Confirmation Form (FCC Form 486), OMB 3060-0853 (April 2000) (2000 FCC Form 486 Instructions); Instructions for Completing the

submission of FCC Form 486 ensures that disbursements for discounts on eligible services are done in a prompt and efficient manner. Because the FCC Form 486 indicates the actual service start date, USAC will only issue disbursements to the service provider for discounts on eligible services after receipt of the form.[10]

4. The deadline for receipt of the FCC Form 486, which is established by USAC, has varied over the years. In Funding Year 2000, applicants with recurring services were required to submit the FCC Form 486 postmarked by December 14, 2001.[11] In Funding Year 2001, the FCC Form 486 was due October 28, 2001, unless the service start date began or a funding commitment decision letter was issued after October 28, 2001.[12] In that case, the FCC Form 486 was required to be postmarked no later than 120 days after the service start date or the date of the funding commitment decision letter, whichever was later, for applicants to receive discounts retroactively to the service start date.[13] If an applicant failed to meet this requirement, USAC adjusted the start date for discounted services to either the date that the FCC Form 486 was postmarked or, in cases where the funding commitment decision letter came after the October 28, 2001 deadline, to 120 days before the date that the FCC Form 486 was postmarked.[14] In Funding Year 2002 and subsequent funding years, the FCC Form 486 had to be postmarked no later than 120 days after the date service began or no later than 120 days after the date of the funding commitment decision letter, whichever was later, to receive discounts retroactively to the service start date.[15] For a late FCC Form 486, the start date for discounted services is reset to 120 days before the postmark date.[16] No

---

Schools and Libraries Universal Service Receipt of Service Confirmation Form, OMB 3060-0853 (July 2001) (2001 FCC Form 486 Instructions); Instructions for Completing the Schools and Libraries Universal Service, Receipt of Service Confirmation Form (FCC Form 486), OMB 3060-0853 (September 2002) (2002 FCC Form 486 Instructions); Instructions for Completing the Schools and Libraries Universal Service, Receipt of Service Confirmation Form (FCC Form 486), OMB 3060-0853 (August 2003) at 2 (2003 FCC Form 486 Instructions) (collectively, FCC Form 486 Instructions).

[10] *See, e.g.,* 2003 Form 486 Instructions at 2. *See also Federal-State Joint Board on Universal Service, Children's Internet Protection Act*, CC Docket No. 96-45, Order, 17 FCC Rcd 12443, 12444, para. 4 (2002) (*CIPA II Order*); 47 C.F.R. § 54.520.

[11] *See* November 2001 Announcements, Funding Year 3 Disbursement Closeout Process, available at http://www.sl.universalservice.org/whatsnew/2001/112001.asp.

[12] *Federal-State Joint Board on Universal Service, Children's Internet Protection Act*, CC Docket No. 96-45, Report and Order, 16 FCC Rcd 8182, 8188-89, 8191, paras. 10, 18 (2001) (*CIPA Order*); 47 C.F.R. § 54.520(g)(1) (2001); 2001 Form 486 Instructions. Under the Children's Internet Protection Act (CIPA) and the Neighborhood Children's Internet Protection Act (NCIPA), Congress imposed new conditions on schools with Internet access that request discounted services under the schools and libraries universal service support mechanism. 47 U.S.C. § 254(h)(5), 254(l). Schools seeking costs for Internet access or internal connections services must certify to these conditions on the FCC Form 486. For Funding Year 2001, Congress established a deadline of October 28, 2001, unless services began after that date or the funding commitment decision letter was sent after that date. 47 U.S.C. §§ 254(h)(5)(E), 254(h)(6)(E); *CIPA Order*, 16 FCC Rcd at 8188-89, 8191, paras. 10, 18. Because the October 28, 2001 deadline for that funding year is a statutory requirement, it cannot be waived.

[13] 2001 Form 486 Instructions at 8-10.

[14] Form 2001 486 Instructions at 9-10. *See, e.g., Request for Review by East Carroll Parish School Board, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-232946, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 24591, 24594, para. 7 (Wireline Comp. Bur. 2002) (providing funding only for services provided on or after the FCC Form 486 filing date of October 30, 2001, instead of the funding year start date of July 1, 2001).

[15] *CIPA II Order*, 17 FCC Rcd at 12445, para. 5; 2003 Form 486 Instructions at 6.

[16] *Id*.

funding is provided for services rendered prior to the new start date and funding commitments are reduced for the relevant funding request.[17]

5. One hundred and twenty-eight Petitioners have requested a waiver of the deadlines or a review of USAC's decision to deny or reduce funding because of the Petitioners' late filings. The Commission may waive any provision of its rules on its own motion and for good cause shown.[18] A rule may be waived where the particular facts make strict compliance inconsistent with the public interest.[19] In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.[20] In sum, waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule.[21]

## III. DISCUSSION

6. In this item, we grant 128 appeals of decisions reducing or denying requests for funding from the E-rate program and remand the underlying applications associated with these appeals to USAC for further action consistent with this Order.[22] Petitioners' requests for funding were denied or reduced because USAC found that the FCC Form 486 was filed late or the form may not have been filed.[23] These Petitioners, however, either claim that the filings were on time,[24] that the late filings were the result of immaterial clerical, ministerial or procedural errors,[25] or that the late filings were due to circumstances beyond their control.[26]

7. Based on the facts and the circumstances of these specific cases, we find that good cause exists to waive the deadline for filing the FCC Form 486 for Petitioners.[27] Under Bureau precedent,

---

[17] *Id.*

[18] 47 C.F.R. §1.3.

[19] *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*).

[20] *WAIT Radio v. FCC*, 418 F.2d 1153, 1157, (D.C. Cir. 1969), *affirmed by WAIT Radio v. FCC*, 459 F.2d 1203 (D.C. Cir. 1972).

[21] *Northeast Cellular*, 897 F.2d at 1166.

[22] Eldora Public Library (Eldora) framed its request for review as an appeal of USAC's denial of its request for an extension of the invoice deadline (FCC Form 472). Our review of the record indicates that Eldora did not file its FCC Form 486. Eldora claims that it inadvertently failed to comply with program rules because of Eldora's small staff and the complexity of the E-rate program. On our own motion, we grant a waiver of Eldora's FCC Form 486 deadline.

[23] *See* Appendix.

[24] *See, e.g.,* Request for Review by Fair Haven School District; Request for Review by Oldham County Public Library; Request for Review by Schuylkill Intermediate Unit No. 29; Request for Review by Bordentown Regional School District; Request for Review by Diocese of Gallup Catholic Schools.

[25] *See, e.g.,* Request for Review by Quartzsite Elementary School District No. 4; Request for Review by Fort Plain Central School District; Request for Review by Good Shepard Center; Request for Review by Pueblo 60 School District; Request for Review by Lifeline Center for Child Development.

[26] *See, e.g.*, Request for Review by Yukon Flats School District; Request for Review by School District U 46; Request for Review by North Wasco County School District No. 21; Request for Waiver by Bay County School District; Request for Review by Western Christian High School.

[27] Because we waive the FCC Form 486 deadline, applicants should receive funding from their actual service start date. We also direct USAC to waive any of its subsequent deadlines if related to the late-filed FCC Form 486, such as the FCC Form 472 deadline, if necessary for the processing of Petitioners' applications.

deadlines have been strictly enforced for the E-rate program, including those pertaining to the FCC Form 486.[28] As we recently noted in *Bishop Perry Middle School,* a departure from required filing deadlines may be warranted upon careful review of the Petitioner's case and when doing so will serve the public interest.[29] Generally, these applicants claim that staff mistakes or confusion, or circumstances beyond their control resulted in missing the FCC Form 486 deadline.[30] We note that the primary jobs of most of the people filling out these forms include school administrators, technology coordinators and teachers, as opposed to staff dedicated to pursuing federal grants, especially in small school districts. Even when a school official becomes adept at the application process, unforeseen events or emergencies may delay filings in the event there is no other person proficient enough to complete the forms.[31] Furthermore, some of the errors were caused by third parties or unforeseen events and therefore were not the fault of the applicants. Given that the applicants missed a USAC procedural deadline and did not violate a Commission rule, we find that the complete rejection of each of these applications is not warranted. Notably, at this time, there is no evidence of waste, fraud or abuse, misuse of funds, or a failure to adhere to core program requirements. Furthermore, we find that denial of funding in these cases would inflict undue hardship on the applicants. In these cases, the applicants have demonstrated that rigid compliance with USAC's application procedures does not further the purposes of section 254(h) or serve the public interest.[32] We therefore grant these appeals and remand them to USAC for further processing consistent with this Order.

8. We emphasize the limited nature of this decision. Because the FCC Form 486 contains the Children's Internet Protection Act (CIPA) certification, all applicants must file the form with USAC.[33] While we have waived the deadline for filing, we do not waive the requirement of the filing itself. Furthermore, we recognize that filing deadlines are necessary for the efficient administration of the schools and libraries E-rate program. Although we grant the subject appeals before us, our action here does not eliminate USAC's deadline for filing the FCC Form 486. We continue to require E-rate applicants to submit complete and accurate information to USAC as part of the application review process. However, as of the effective date of this Order, we require USAC to develop additional outreach and educational efforts to inform applicants of the application requirements in an attempt to reduce these types of filing errors. Specifically, USAC shall develop a targeted outreach program designed to identify schools and libraries that have not filed their FCC Form 486 120 days from the date of their funding commitment decision letter or service start date, whichever is later.[34] The purpose of this outreach effort

---

[28] *See Requests for Waiver by Lucia Mar Unified School District, et al., Schools and Libraries Universal Service Support Mechanism*, File Nos. SLD-249712, *et al*., CC Docket No. 02-6, Order, 19 FCC Rcd. 20364, para. 3 (Wireline Competition Bur. Rel. May 28, 2004); *Request for Review by East Carroll Parish School Board, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc*., File No. SLD-232946, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 24591, 24594, para. 7 (Wireline Comp. Bur. 2002).

[29] *Request for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School, et al., Schools and Libraries Universal Service Support Mechanism,* File Nos. SLD-487170, *et al.*, CC Docket No. 02-6, Order, 21 FCC Rcd 5316, para. 9 (rel. May 19, 2006) (*Bishop Perry Middle School*).

[30] Some Petitioners claim that they postmarked the FCC Form 486 on time. Given that we are waiving USAC's deadline for these applicants who mistakenly or knowingly filed late, we give these Petitioners the benefit of the doubt and, to the extent necessary, waive the FCC Form 486 filing deadline for them as well.

[31] For example, Western Christian High School's sole Universal Service Fund official suffered a debilitating stroke and was unable to meet the Form 486 deadline. Request for Review by Western Christian High School at 1.

[32] *See* 47 U.S.C. § 254(h).

[33] Those applicants that filed their FCC Form 486 with their appeal to the Commission must also file the form with USAC, if they have not already done so.

[34] The service start date can be determined from Block 5 of the applicant's FCC Form 471.

will be to provide the applicant with an additional opportunity to file or amend its FCC Form 486. When an applicant has missed the deadline to file its FCC Form 486, applicants will have 15 calendar days from the date of receipt of notice in writing by USAC to file or amend its FCC Form 486.[35] Again, this direction will not limit or preclude any application review procedures of USAC; instead, this 15-day period will provide E-rate applicants with a limited additional opportunity to file or amend its FCC Form 486. The 15-day period is limited enough to ensure that funding decisions are not unreasonably delayed for E-rate applicants and should be sufficient time to correct truly unintentional ministerial and clerical errors.[36] The opportunity for applicants to file or amend their filings to cure minor errors will also improve the efficiency and effectiveness of the Fund. Because applicants who are eligible for funding will now receive funding where previously it was denied for minor errors, we will ensure that funding is distributed first to the applicants who are determined by our rules to be most in need of funding. As a result, universal service support will be received by schools in which it will have the greatest impact for the most students. Furthermore, the opportunity to file or amend the application will improve the efficiency of the schools and libraries program. If USAC helps applicants file timely and correct forms initially, USAC should be able to reduce the money it spends on administering the fund because fewer appeals will be filed protesting the denial of funding for these types of issues. Therefore, we believe this additional opportunity to file the FCC Form 486 will improve the administration of fund. In addition, we note that the Commission has initiated a proceeding to address whether particular deadlines should be modified.[37]

9. Finally, we are committed to guarding against waste, fraud, and abuse, and ensuring that funds disbursed through the E-rate program are used for appropriate purposes. Although we grant the appeals addressed here, this action in no way affects the authority of the Commission or USAC to conduct audits and investigations to determine compliance with the E-rate program rules and requirements. Because audits and investigations may provide information showing that a beneficiary or service provider failed to comply with the statute or Commission rules, such proceedings can reveal instances in which universal service funds were improperly disbursed or in a manner inconsistent with the statute or the Commission's rules. To the extent we find that funds were not used properly, we will require USAC to recover such funds through its normal processes. We emphasize that we retain the discretion to evaluate the uses of monies disbursed through the E-rate program and to determine on a case-by-case basis that waste, fraud, or abuse of program funds occurred and that recovery is warranted. We remain committed to ensuring the integrity of the program and will continue to aggressively pursue instances of waste, fraud, or abuse under our own procedures and in cooperation with law enforcement agencies.

## IV. ORDERING CLAUSES

10. ACCORDINGLY, IT IS ORDERED that, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and pursuant to authority delegated in sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47

[35] Such 15-day notice shall be 15 calendar days' notice, and shall commence on the date of receipt of such notice by applicant, or five (5) calendar days after such notice is postmarked as sent by USAC, whichever is sooner. Applicants will be presumed to have received notice five days after such notice is postmarked by USAC. USAC, however, shall continue to work beyond the 15 days with applicants attempting in good faith to file or amend their FCC Form 486.

[36] We note that applicants will retain the ability to appeal decisions denying funding requests on the grounds discussed herein.

[37] *Comprehensive Review NPRM*, 20 FCC Rcd at 11321, para. 29.

C.F.R. §§ 0.91, 0.291, 1.3 and 54.722(a), that the Requests for Review and/or Requests for Waiver filed by the Petitioners as listed in the Appendix ARE GRANTED.

11. IT IS FURTHER ORDERED that, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and pursuant to authority delegated in sections 0.91, 0.291, 1.3 and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, and 54.722(a), that the Requests for Review and/or Requests for Waiver filed by the Petitioners as listed in the Appendix ARE REMANDED to USAC for further consideration in accordance with the terms of this Order.

12. IT IS FURTHER ORDERED that, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and pursuant to authority delegated in sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91 and 0.291, USAC SHALL COMPLETE its review of each remanded application listed in the Appendix and ISSUE an award or a denial based on a complete review and analysis no later than 90 calendar days from release of this Order.

13. IT IS FURTHER ORDERED that this Order and the rules adopted herein SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Thomas J. Navin
Chief
Wireline Competition Bureau

**Appendix:**
**FCC Form 486 Deadline Petitions**

| Applicant | Application Number | Funding Year | Type of Appeal |
|---|---|---|---|
| Alaska Gateway School District<br>Tok, AK | 412028 | 2004 | Request for Review |
| Andrews County Library<br>Andrews, TX | 440481 | 2005 | Request for Review |
| Antwerp Local School District<br>Antwerp, OH | 464507 | 2005 | Request for Waiver |
| Archbishop Neale School<br>La Plata, MD | 302737 | 2002 | Request for Waiver |
| Arlington Heights Memorial Library<br>Arlington Heights, IL | 415027 | 2004 | Request for Waiver |
| Bay County School District<br>Panama City, FL | 398681 | 2004 | Request for Waiver |
| Beaufort County School District<br>Beaufort, SC | 294836 | 2002 | Request for Review |
| Berrien County School District<br>Nashville, GA | 317226 | 2002 | Request for Waiver |
| Bledsoe County Public Library<br>Pikeville, TN | 301204 | 2002 | Request for Review |
| Bobover Yeshiva Bnei Zion<br>Brooklyn, NY | 291074 | 2002 | Request for Waiver |
| Bordertown Regional School District<br>Bordertown, NJ | 387135 | 2004 | Request for Waiver |
| Brooks County School District<br>Quitman, GA | 321413 | 2002 | Request for Waiver |
| Broome-Tioga BOCES<br>Syracuse, NY | 265671 | 2001 | Request for Waiver |
| Brown Public Library<br>Northfield, VT | 328164 | 2002 | Request for Waiver |

| | | | |
|---|---|---|---|
| Brunswick Central Schools<br>Troy, NY | 404068 | 2004 | Request for Review |
| Buffalo Independent School District<br>Buffalo, TX | 371183 | 2003 | Request for Review |
| Burgundy Farm Country Day School<br>Alexandria, VA | 191800 | 2000 | Request for Review |
| Cabarrus County School Systems<br>Concord, NC | 299281<br>302819 | 2002 | Request for Waiver |
| Carroll County School District<br>Westminster, MD | 302819 | 2002 | Request for Review |
| Central Kansas Library System<br>Great Bend, KS | 328836 | 2002 | Request for Waiver |
| Chattanooga-Hamilton County Bicentennial Library<br>Chattanooga, TN | 379922 | 2003 | Request for Waiver |
| Cherokee County School District<br>Canton, GA | 322398 | 2002 | Request for Review |
| Children's Home of Wyoming Conference<br>Binghampton, NY | 398068 | 2004 | Request for Review |
| Chino Valley High School No. 51<br>Chino Valley, AZ | 330837 | 2002 | Request for Review |
| Chittenden Central SU 13<br>Montpelier, VT | 415681 | 2004 | Request for Review |
| Church of St. Aidan Parish School<br>Williston Park, NY | 297395 | 2002 | Request for Review |
| Cinnaminson Township Public Schools<br>Cinnaminson, NJ | 356114 | 2003 | Request for Review |
| Cleveland Elementary School<br>Cleveland, AL | 362832 | 2003 | Request for Waiver |
| Clinton County Board of Education<br>Albany, KY | 291898 | 2002 | Request for Waiver |
| Colton Joint Unified School District<br>Colton, CA | 366876 | 2003 | Request for Waiver |

| | | | |
|---|---|---|---|
| Columbus Public Schools<br>Columbus, OH | 365588 | 2003 | Request for Review and Waiver |
| Community Consolidated School District 59<br>Arlington Heights, IL | 328076<br>328077 | 2002 | Request for Review |
| Cundy's Harbor Library<br>Harpswell, ME | 292633 | 2002 | Request for Waiver |
| Diocese of Gallup Catholic Schools<br>Cortez, CO | 352887 | 2003 | Request for Review |
| Diocese of Gallup Catholic Schools<br>Cortez, CO | 355457 | 2003 | Request for Review |
| Douglas County School District 04<br>Roseburg, OR | 431083,<br>430560 | 2004 | Request for Review |
| Dry Creek Joint Elementary School District<br>Rosevill, CA | 409881 | 2004 | Request for Review |
| Dubuque Community School District<br>Dubuque, IA | 327890 | 2002 | Request for Review |
| Eldora Public Library<br>Eldora, IA | 346316 | 2003 | Request for Review |
| Emerson Board of Education<br>Syracuse, NY | 280479 | 2001 | Request for Review |
| Estill Elementary School<br>Estill, NC | 234858<br>234895<br>234919<br>234944 | 2001 | Request for Review |
| Fair Haven School District<br>Fair Haven, NJ | 367738 | 2003 | Request for Review |
| Flint City School District<br>Flint, MI | 359243 | 2003 | Request for Review |
| Fort Plain Central School District<br>Fort Plain, NY | 412951 | 2004 | Request for Review |
| Fort Vancouver Regional Library District<br>Vancouver, WA | 291242 | 2002 | Request for Waiver |
| Galloway TWP School District<br>Galloway, NJ | 305849 | 2002 | Request for Review |

| | | | |
|---|---|---|---|
| Glades County School District<br>Moore Haven, FL | 453848,<br>454205 | 2005 | Request for Waiver |
| Good Shepherd School<br>Baltimore, MD | 266044 | 2001 | Request for Review |
| Good Shepherd School<br>Frankfort, KY | 172300 | 2000 | Request for Waiver |
| Grand Coulee Dam School District<br>Coulee Dam, WA | 298633 | 2002 | Request for Waiver |
| Hazlet Township School District<br>Hazlet, NJ | 361921 | 2003 | Request for Review |
| Hennepin County Library<br>St. Paul, MN | 359143 | 2003 | Request for Review |
| Hood River County School District<br>Hood River, OR | 364794 | 2003 | Request for Review |
| Hudson County Schools of Technology<br>North Bergen, NJ | 297875 | 2002 | Request for Waiver |
| Hull Public Library<br>Hull, IA | 298528 | 2002 | Request for Review |
| Illinois School for the Deaf<br>Jacksonville, IL | 347661 | 2003 | Request for Review |
| JEDI Distance Education Consortium<br>Fort Atkinson, WI | 327192 | 2002 | Request for Waiver |
| Jefferson County School Board<br>Monticello, FL | 459304 | 2005 | Request for Waiver |
| Karnes City Independent School District<br>Karnes City, TX | 357945 | 2003 | Request for Waiver |
| Knox County Schools<br>Knoxville, TN | 215885 | 2001 | Request for Review |
| La Gloria Independent<br>Falfurrias, TX | 178419 | 2000 | Request for Review |
| Lamar Consolidated Independent School District<br>Rosenberg, TX | 459460 | 2005 | Request for Review |

| | | | |
|---|---|---|---|
| Licking Valley Local School District<br>Newark, OH | 392774 | 2004 | Request for Review |
| Lifeline Center for Child Development, Inc.<br>Queens Village, NY | 409570 | 2004 | Request for Review |
| Lima City School District<br>Lima, OH | 470234 | 2005 | Request for Review and Waiver |
| Lindsay Unified School District<br>Lindsay, CA | 410849<br>411165 | 2004 | Request for Review and Waiver |
| Little Ferry School District<br>Little Ferry, NJ | 295815 | 2002 | Request for Waiver |
| Lowell Public Schools<br>Lowell, MA | 359824 | 2003 | Request for Waiver |
| Madison Metro School District<br>Madison, WI | 353089<br>353119<br>353212 | 2003 | Request for Review |
| Madison-Oneida BOCES<br>Verona, NY | 462476 | 2005 | Request for Waiver |
| Mahopac Public Library<br>Mahopac, NY | 402345 | 200 | Request for Review |
| Maine School Administration District No. 56<br>Searsport, ME | 243128<br>243720<br>249415<br>249470 | 2001 | Request for Waiver |
| Martin Public School District<br>Martin, MI | 426227 | 2004 | Request for Waiver |
| Martins Ferry City School District<br>Martins Ferry, OH | 302365 | 2002 | Request for Review and Waiver |
| Modoc County Office of Education<br>St. Alturas, CA | 315896 | 2002 | Request for Waiver |
| Moline School District<br>Moline, IL | 356437 | 2003 | Request for Review |
| Monett School District R-1<br>Monett, MO | 300380 | 2002 | Request for Review |
| Montrose County School District<br>Montrose, CO | 427322 | 2004 | Request for Review |

| | | | |
|---|---|---|---|
| Morgan County School District<br>Wartburg, TN | 327398 | 2002 | Request for Review and Waiver |
| Municipal Telephone Exchange<br>Baltimore, MD | 267659 | 2001 | Request for Waiver |
| Nampa School District 131<br>Nampa, ID | 318599 | 2002 | Request for Waiver |
| National School District<br>National City, CA | 230814 | 2001 | Request for Review |
| Nativity Academy at Saint Boniface<br>Louisville, KY | 419716 | 2004 | Request for Waiver |
| North Wasco County School District 21<br>The Dalles, OR | 409053 | 2004 | Request for Waiver |
| Northwest Artic Borough School District<br>Kotzebue, AK | 406645 | 2004 | Request for Review and Waiver |
| Oakland Unified School District<br>Oakland, CA | 414456<br>417784 | 2004 | Request for Waiver |
| Oldham County Public Library<br>Buckner, KY | 400462 | 2004 | Request for Review |
| Ontario School District 8 C<br>Ontario, OR | 295232 | 2002 | Request for Waiver |
| Orange-Ulster BOCES<br>Syracuse, NY | 262616 | 2001 | Request for Review |
| Our Lady of Refuge<br>Brooklyn, NY | 203596 | 2000 | Request for Review |
| Phenix City School District<br>Phenix City, AL | 322329<br>323545 | 2002 | Request for Review |
| Pioneer Regional School Corporation<br>Royal Center, IN | 346650 | 2003 | Request for Waiver |
| Pitt County Schools<br>Greenville, NC | 254432 | 2001 | Request for Review |
| Plymouth-Canton Community Schools<br>Plymouth, MI | 375805 | 2003 | Request for Waiver |
| Prairie-Hills Elementary School District 144<br>Hazel Crest, IL | 252724 | 2001 | Request for Review |

| | | | |
|---|---|---|---|
| Providence School District<br>Providence, RI | 289156 | 2002 | Request for Review and Waiver |
| Public Schools of Springfield, Massachusetts<br>Springfield, MA | 262612 | 2001 | Request for Review |
| Pueblo City School District 60<br>Pueblo, CO | 398109 | 2004 | Request for Review |
| Quartzsite Elementary School District # 4<br>Ehrenberg, AZ | 407280 | 2004 | Request for Review |
| Redlands United School District<br>Redlands, CA | 286577 | 2002 | Request for Review |
| Saint Bede School<br>Ingleside, IL | 302736 | 2002 | Request for Waiver |
| San Bernardino City Unified School District<br>San Bernardino, CA | 229943<br>229951 | 2001 | Request for Waiver |
| School District of Escambia County<br>Pensacola, FL | 459695<br>460757<br>464483 | 2005 | Request for Waiver |
| School District U-46<br>Elgin, IL | 387466 | 2004 | Request for Review |
| Schuylkill Intermediate Unit 29<br>Mar Lin, PA | 412852 | 2004 | Request for Waiver |
| Seaford District Library<br>Seaford, DE | 186219<br>182411 | 2000 | Request for Waiver |
| Sherburne-Earlville Central School District<br>Sherburne, NY | 351972 | 2003 | Request for Waiver |
| Smyer Independent School District<br>Smyer, TX | 449773 | 2005 | Request for Waiver |
| Southeastern Regional Vocational-Technical School<br>South Easton, MA | 470921 | 2005 | Request for Waiver |
| Southwest Region School District<br>Dillingham, AK | 311369 | 2002 | Request for Review and Waiver |
| Spring Hill Unified School District 230<br>Spring Hill, KS | 289683 | 2002 | Request for Review |

| | | | |
|---|---|---|---|
| St. Bernadette School<br>Seattle, WA | 358930 | 2003 | Request for Review |
| St. Luke's Lutheran School<br>St. Louis, MO | 364411<br>364448 | 2003 | Request for Review |
| St. Malachy School<br>Rantoul, IL | 339842 | 2003 | Request for Review |
| Sweetwater County School District No. 2<br>Green River, WY | 392435<br>392334<br>392324<br>392416 | 2004 | Request for Waiver |
| Talullah Falls Schools<br>Talullah Falls, GA | 410133 | 2004 | Request for Review |
| Tanana City School District<br>Tanana, AK | 381012 | 2003 | Request for Waiver |
| Texas Education Telecommunications Network<br>Austin, TX | 330978 | 2002 | Request for Review and Waiver |
| The School District of Marlboro County<br>Bennettsville, SC | 376637 | 2003 | Request for Review |
| Union Beach Public Schools<br>Union Beach, NJ | 203423 | 2000 | Request for Review |
| Vernon Verona Sherrill City School District<br>Verona, NY | 355243 | 2003 | Request for Review |
| Washington State Department of Information Services<br>Olympia, WA | 229488 | 2001 | Request for Review |
| Washington State Department of Information Services<br>Olympia, WA | 406070 | 2004 | Request for Review |
| Western Christian High School<br>Hull, IA | 298244 | 2002 | Request for Review |
| Whitman-Hanson Regional School District<br>Whitman, MA | 429515 | 2004 | Request for Review |
| Windsor School District<br>Windsor, VT | 337525 | 2003 | Request for Review |

| | | | |
|---|---|---|---|
| Wiscasset School Department<br>Wiscasset, ME | 398615 | 2004 | Request for Waiver |
| Yukon Flats School District<br>Fort Yukon, AK | 435210 | 2004 | Request for Review |