



610 West 112th Street
New York, NY 10025-1898

January 7, 2013

Letter of Appeal

Federal Communications Commission
Office of the Secretary
9300 East Hampton Drive
Capitol Heights, MD 20743

CC Docket No 02-6

Request for Waiver of Administrator’s Decision on Appeal – Funding Year 2011-12, Issued on November 8, 2012

Authorized person who can best discuss this Appeal with you

Richard Larson
eRate 360 Solutions, LLC
322 Route 46W, Suite 280W
Parsippany, NJ 07054

Phone: (888) 535-7771 ext 102
Fax: (866) 569-3019
Email: rlarson@erate360.com
(preferred mode of contact)

Application Information

Entity Bank Street School for Children
Billed Entity Number 10041
Form 471 Number 796250

FRNs	SPIN	Service Provider Name	Original Funding Commitment	486 NL Funding Commitment
2154786	143001359	Verizon New York Inc.	\$2,448.00	\$816.00
2154820	143001359	Verizon New York Inc.	\$3,436.80	\$1,145.60
2154830	143001359	Verizon New York Inc.	\$676.80	\$225.60
2154871	143001359	Verizon New York Inc.	\$5,073.60	\$1,691.20
2154891	143001359	Verizon New York Inc.	\$2,899.20	\$966.40
2154909	143001359	Verizon New York Inc.	\$76.80	\$25.60
2154917	143001359	Verizon New York Inc.	\$681.60	\$227.20
2154933	143001359	Verizon New York Inc.	\$1,656.00	\$552.00
2154947	143001359	Verizon New York Inc.	\$129.60	\$43.20
2154987	143001359	Verizon New York Inc.	\$1,512.00	\$504.00
2155005	143001359	Verizon New York Inc.	\$9,926.40	\$3,308.80
2155138	143001197	Verizon Business Global LLC	\$6,288.00	\$2,096.00
2155173	143001197	Verizon Business Global LLC	\$144.00	\$48.00
2155195	143001197	Verizon Business Global LLC	\$81.60	\$27.20
2155210	143001197	Verizon Business Global LLC	\$211.20	\$70.40
2202360	143001359	Verizon New York Inc.	\$6,086.40	\$2,028.80
2202400	143001157	Qwest Communications Company	\$9,235.20	\$3,078.40
2202456	143001157	Qwest Communications Company	\$3,302.40	\$1,100.80
2211186	143004275	RCN - BECOCOM, LLC	\$288.00	\$96.00
2211238	143030861	Time Warner Cable Info. Svcs. (NJ)	\$758.40	\$252.80

2211302	143000677	Verizon Wireless	\$3,830.40	\$1,276.80
2211393	143025240	AT&T Mobility	\$5,520.00	\$1,840.00
TOTALS			\$64,262.40	\$21,420.80

Document Being Appealed: Administrator's Decision on Appeal – Funding Year 2011-12, Issued on November 8, 2012¹

Decision on Appeal: Denied

Explanation: ... On November 16, 2011, USAC mailed an Urgent Reminder letter providing the applicant with additional time and a new deadline of December 6, 2011, to submit and/or certify the FCC Form 486. The FCC Form 486 application 881731 was postmarked and certified on July 2, 2012, which is after the new deadline. ... It is the responsibility of the applicant to ensure that all forms are submitted to USAC in a correct and timely manner. Since Bank Street School for Children has not provided sufficient evidence on appeal demonstrating that USAC erred in its decision, the appeal is denied.

Request for Waiver:

Bank Street School for Children (the School) requests that the Federal Communications Commission (FCC) reverse the decision of USAC and adjust the Form 486 Service Start Date (SSD) to July 1, 2012 for the 22 FRNs in Form 471 # 796250 listed above, thereby restoring the \$42,841.60 of funding denied by USAC.

There are two circumstances involving filing and certifying of the Form 486 for these 22 FRNs that SLD dismisses out of hand:

1. The School has no record of receiving SLD's Form 486 Reminder Letter, dated November 16, 2011.
2. The certification of the Form 486 mailed on December 23, 2011, was not processed by SLD, forcing the School to file a replacement certification on August 2, 2012.

Both circumstances were beyond the control of the School:

1. The fact that the School did not receive SLD's Form 486 Reminder Letter was apparently caused by a failure either on the part of SLD's correspondence distribution system, or on the part of the U.S. Postal Service. The School's mailroom successfully handles a myriad of items on a daily basis. The Reminder Letter was properly and clearly addressed; if it had arrived at the School, it would have been delivered to the addressee, Frank Nuara, the Chief Operating Officer and 15-year employee of the School.

We are at a loss to know what "sufficient evidence" will satisfy SLD that the letter was not received at the School. Perhaps such urgent correspondence should not rely solely upon the postal system, but rather, as is the rule for PIA review correspondence, a dual-mode-of-contact rule should be used: send such correspondence by an alternative method in addition to the mail, in this case by fax, which is Mr. Nuara's preferred mode of contact per the Forms 470 and 471 certified by Mr. Nuara.

2. At 10:13 AM on December 23, 2011, the Form 486 was submitted on line by Bert Garofano, consultant for the School.² Mr. Garofano states that he mailed the signed certification to SLD later that same day. The School is unable to determine whether the certification was not delivered by the U.S. Postal Service or was delivered but not

¹ Letter from Schools and Libraries Division, USAC, to Rich Larson, consultant for Bank Street School for Children, dated November 8, 2012, entitled "Administrator's Decision on Appeal – Funding Year 2011-12" re: Bank Street School for Children, Form 471 Application Number 796250 and Form 486 Application Number 881731.

² Paper certification for Form 486 # 881731, signed by Bert Garofano, consultant for the School. *Note the date/time of online submission in Item 13.*

processed by SLD. We do know that the Form was submitted on the 23rd, and that Mr. Garofano is equally certain that he mailed the certification the same day.³

Alaska Gateway School District, Tok, AK, et al:

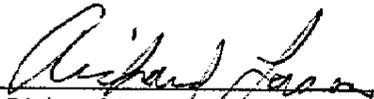
As a general statement, SLD's contention that it is "the responsibility of the applicant to ensure that all forms are submitted to USAC in a correct and timely manner" is reasonable. However, in its *Alaska Gateway* ruling the Commission modulated the application of this principle. The School stated to SLD in its appeal letter of October 22, 2012 that "forms were prepared and certified by the Chief Operating Officer, Frank Nuara, whose demanding duties which involve all aspects of school operation leave little time or resources to focus on the complex and demanding E-rate process."⁴ The Commission's clearly took this very sort of situation into account, stating that:

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. Generally, these applicants claim that staff mistakes or confusion, or circumstances beyond their control resulted in missing the FCC Form 486 deadline. 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. 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.⁵

The School respectfully contends that this understanding of the difficulties faced by applicants such as Mr. Nuara, which led the Commission to require USAC to establish the Urgent Reminder Letter procedure, ought to be applied to this particular situation. We ask the Commission to apply its philosophical approach to such oversights of administrative deadlines and waive the rules which led to revision of the 486 SSD, thereby restoring full funding of \$64,262.40 to these FRNs.

The School appreciates the SLD's consideration of its appeal. We are available to respond to questions or to provide any further information requested by the SLD.

Authorized signature for this Appeal⁶


Richard Larson
eRate 360 Solutions, LLC
322 Route 46W, Suite 280W
Parsippany, NJ 07054

Date: 1/7/13
Phone: (888) 535-7771 ext 102
Fax: (866) 569-3019
Email: rlarson@erate360.com

³ Written statement by Bert Garofano, Compliance Officer employed by eRate 360 Solutions and assigned as consultant for the School, dated 8/2/2012.

⁴ Letter of Appeal from Richard Larson, consultant for Bank Street School for Children, to Schools and Libraries Division, dated October 22, 2012, re: "Appeal of Form 486 Notification Letter (Funding Year 2011), Issued on August 22, 2012, Re: Form 486 Application Number 881731"

⁵ DA 06-1871, September 14, 2006, "*Alaska Gateway School District, Tok, AK, et al.*", File Nos. SLD-412028, et al., CC Docket No. 02-6; p. 5.

⁶ "Letter of Agency" from Frank Nuara, Chief Operating Officer, Bank Street School for Children, authorizing employees of eRate 360 Solutions, LLC, to perform e-rate services on behalf of the School.



Administrator’s Decision on Appeal – Funding Year 2011-2012

November 08, 2012

Rich Larson
eRate 360 Solutions
322 Route 46W, Suite 280W
Parsippany, NJ 07054

Re: Applicant Name: BANK STREET SCHOOL FOR CHILDREN

Billed Entity Number: 10041

Form 471 Application Number: 796250

Form 486 Application Number: 881731

Funding Request Number(s): 2154786, 2154820, 2154830, 2154871, 2154891, 2154909, 2154917, 2154933, 2154947, 2154987, 2155005, 2155138, 2155173, 2155195, 2155210, 2202360, 2202400, 2202456, 2211186, 2211238, 2211302, 2211393

Your Correspondence Dated: October 22, 2012

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2011 Form 486 Notification Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 2154786, 2154820, 2154830, 2154871, 2154891, 2154909, 2154917, 2154933, 2154947, 2154987, 2155005, 2155138, 2155173, 2155195, 2155210, 2202360, 2202400, 2202456, 2211186, 2211238, 2211302, 2211393

Decision on Appeal: **Denied**
Explanation:

- USAC determined that the Form 486 for this funding request should have been filed within 120-days calculated from the issuance date of the Funding

Commitment Decision Letter (FCDL) or the Service Start Date (SSD) as indicated on the Form 486, whichever is later. The record shows that the date of the FCDL is June 23, 2011 and that the SSD indicated on the FCC Form 486 was July 1, 2011. On November 16, 2011, USAC mailed an Urgent Reminder letter providing the applicant with additional time and a new deadline of December 6, 2011, to submit and/or certify the FCC Form 486. The FCC Form 486 application 881731 was postmarked and certified on July 2, 2012, which is after the new deadline. Consequently, the SSD was revised to March 4, 2012, 120 days before the FCC Form 486 postmark date. The appellant states on appeal that "it was victim of two circumstances beyond its control: failure to receive the 486 Reminder Letter and SLD's failure to receive or process the December 23, 2011 certification," which caused them to file late. It is the responsibility of the applicant to ensure that all forms are submitted to USAC in a correct and timely manner. Since Bank Street School for Children has not provided sufficient evidence on appeal demonstrating that USAC erred in its decision, the appeal is denied.

- FCC rules require applicants to use recurring services within the relevant funding year and to implement non-recurring services by the applicable deadline established by the Commission. *See* 47 C.F.R. sec. 54.507(d). The FCC Form 486 informs USAC when the applicant is scheduled to receive or has received services in the relevant funding year from the named service provider. The receipt of a properly completed FCC Form 486 triggers the process for USAC to receive invoices. In order for an applicant to receive discounts retroactively to the Service Start Date (SSD), the FCC Form 486 should be postmarked no later than 120 days after the SSD featured on the FCC Form 486 or no later than 120 days after the date of the Funding Commitment Decision Letter (FCDL), whichever is later. When an applicant has missed a deadline to file its FCC Form 486, it is given an additional 20 calendar days from the date of receipt of USAC's written notice to file or amend its FCC Form 486 and receive services retroactively to the SSD. *See* Request for Review and Waiver 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, 21 FCC Rcd 10186-10187, DA 06-1871, para. 8 (rel. Sep. 14, 2006).

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either USAC or the FCC. For appeals that have been denied in full, partially approved, dismissed, or canceled, 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 received or postmarked within 60 days of the 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.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

cc: Frank Nuara

Rich Larson
eRate 360 Solutions
322 Route 46W, Suite 280W
Parsippany, NJ 07054

Billed Entity Number: 10041
Form 471 Application Number: 796250
Form 486 Application Number: 881731

NOTE 2

FCC Form
406

Do Not Write In This Area

Approval by
OMB
3060-0953

Application ID : 881731

Entity Number	10041	Applicant's Form Identifier	10041-Y14A
Contact Person	BertGarofano or FrankNuara	Phone Number	888-535-7771 x 106

I certify that I am authorized to submit this receipt of service confirmation on behalf of the above-named Billed Entity, that I have examined this request, and that, to the best of my knowledge, information, and belief, all statements of fact contained herein are true.

12. Signature of authorized person <i>Bert Garofano</i>	13. Date 12/23/2011 10:13:54 AM	
14. Printed name of authorized person Bert Garofano		
15. Title or position of authorized person Compliance Officer		
16a. Street Address, P.O. Box, or Route Number 322 Route 46 W, Suite 280W eRate 360 Solutions, LLC City Parsippany State NJ Zip Code 07054-		
16b. Telephone number of authorized person 888-535-7771	Extension 106	16c. Fax number of authorized person 888-569-3019
16d. Email address of authorized person ugarofano@erate360.com		

Please submit this form to:

SLD Form 486
P. O. Box 7026
Lawrence, Kansas 66044-7026

For express delivery services or U.S. Postal Service, Return Receipt Requested, send this form to:

SLD Forms
ATTN: SLD Form 486
3833 Greenway Drive
Lawrence, Kansas 66046
888-203-8100



0486010603

 **eRate360**
eRate 360 Solutions, LLC
322 Route 46 W, Suite 280W
Parsippany, NJ 07054

NOTE 3

To whom it may concern:

On 08/01/2012, I was preparing the FY14 (2011-2012) Funding Year Bear Workbook by accessing the Data Retrieval Tool on the SLD Website. I noticed that the 486 SSD Field was not populated. I called the SLD Help Desk and spoke to Anthony (Case # 22-397858) and was advised that there was no record of the Form 486 Certification being received.

The Form 486 # 881731 was submitted on 12/23/2011 at 10:13 AM, by Rich Larson. Rich Larson emailed me a copy of the Form 486 Certification Page on 12/23/2011 at 10:23 AM, Shortly after receiving the email, I signed the Paper Certification for the Form 486 # 881731 and faxed this into our Fax Server. I went to the Post Office in my town of Cedar Knolls and mailed the Form 486 to the address below via 1st Class Mail approximately 12:00PM:

SLD Form 486
P.O. Box 7026
Lawrence, Kansas, 66044-7026

Rich Larson obtained the Form 486 Paper Certification that I faxed in and then, on 12/23/2011 at 12:17 PM, he emailed it to the client, Bank Street for Children, to advise them the Form 486 was completed and certified.

Unfortunately, due to circumstances beyond my control, USAC never processed the Paper Certification Form 486.


Bert Garofano


Date:



NOTE 4

610 West 112th Street
New York, NY 10025-1898

October 22, 2012

Letter of Appeal
Schools and Libraries Division – Correspondence Unit
30 Lanidex Plaza West, PO Box 685
Parsippany, NJ 07054-0685

Re: Appeal of Form 486 Notification Letter (Funding Year 2011), Issued on August 22, 2012, Re: Form 486 Application Number 881731

Authorized person who can best discuss this Appeal with you

Richard Larson
eRate 360 Solutions, LLC
322 Route 46W, Suite 280W
Parsippany, NJ 07054

Phone: (888) 535-7771 ext 102
Fax: (866) 569-3019
Email: rlarson@erate360.com
(preferred mode of contact)

Application Information

Entity Bank Street School for Children
Billed Entity Number 10041
Form 471 Number 796250

FRNs	SPIN	Service Provider Name	Original Funding Commitment	486 NL Funding Commitment
2154786	143001359	Verizon New York Inc.	\$2,448.00	\$816.00
2154820	143001359	Verizon New York Inc.	\$3,436.80	\$1,145.60
2154830	143001359	Verizon New York Inc.	\$676.80	\$225.60
2154871	143001359	Verizon New York Inc.	\$5,073.60	\$1,691.20
2154891	143001359	Verizon New York Inc.	\$2,899.20	\$966.40
2154909	143001359	Verizon New York Inc.	\$76.80	\$25.60
2154917	143001359	Verizon New York Inc.	\$681.60	\$227.20
2154933	143001359	Verizon New York Inc.	\$1,656.00	\$552.00
2154947	143001359	Verizon New York Inc.	\$129.60	\$43.20
2154987	143001359	Verizon New York Inc.	\$1,512.00	\$504.00
2155005	143001359	Verizon New York Inc.	\$9,926.40	\$3,308.80
2155138	143001197	Verizon Business Global LLC	\$6,288.00	\$2,096.00
2155173	143001197	Verizon Business Global LLC	\$144.00	\$48.00
2155195	143001197	Verizon Business Global LLC	\$81.60	\$27.20
2155210	143001197	Verizon Business Global LLC	\$211.20	\$70.40
2202360	143001359	Verizon New York Inc.	\$6,086.40	\$2,028.80
2202400	143001157	Qwest Communications Company	\$9,235.20	\$3,078.40
2202456	143001157	Qwest Communications Company	\$3,302.40	\$1,100.80
2211186	143004275	RCN - BECOM, LLC	\$288.00	\$96.00
2211238	143030861	Time Warner Cable Info. Svcs. (NJ)	\$758.40	\$252.80
2211302	143000677	Verizon Wireless	\$3,830.40	\$1,276.80
2211393	143025240	AT&T Mobility	\$5,520.00	\$1,840.00
TOTALS			\$64,262.40	\$21,420.80

Document Being Appealed:

Form 486 Notification Letter (Funding Year 2011), Issued on August 22, 2012, Re: Form 486 Application Number 881731¹

Adjusted Funding Commitment: \$21,420.80 total for each 22 FRNs above

Service Start Date: 03/04/2012

Service Start Date Explanation: 120 day 486 deadline

Appeal:

Bank Street School for Children (the School) requests that the Schools and Libraries Division (SLD) reverse its decision to adjust the Form 486 Service Start Date (SSD) to March 4, 2012 for the 22 FRNs in Form 471 # 796250 listed above, the effect of which is to deny the School of \$42,841.60 of funding. There are two circumstances involving filing and certifying of the Form 486 for these 22 FRNs that impacted the School's funding:

1. The School has no record of receiving SLD's Form 486 Reminder Letter, dated November 16, 2011.
2. The certification of the Form 486 mailed on December 23, 2011, was not processed by SLD, forcing the School to file a replacement certification on August 2, 2012.

Both circumstances beyond the control of the School; we ask that SLD change the Service Start Date to the July 1, 2011 date on the Form 486 and restore full funding to all 22 FRNs.

Form 486 Reminder Letter:

The staff at the School has limited knowledge of the E-rate process, and was severely challenged to manage the process because of their limited staff. Forms were prepared and certified by the Chief Operating Officer, Frank Nuara, whose demanding duties which involve all aspects of school operation leave little time or resources to focus on the complex and demanding E-rate process. In its *Alaska Gateway*² ruling the FCC directed SLD to establish the Form 486 reminder letter at least in part with this situation in mind.

Unfortunately, Mr. Nuara did not receive the Reminder Letter, and without the reminder, he did not file the Form 486 by the designated deadline. Please note that the duplicate copy of this Reminder Letter³ accompanying this appeal was obtained from the SLD Client Service Bureau (CSB) on August 31, 2012 (case # 22-408374) and is the sole copy of this letter in the School's files.

On December 19, 2011, Mr. Nuara was contacted by eRate 360 Solutions LLC (eRate 360), an E-rate consulting firm, who advised him that his Form 486 had not been timely-filed. Mr. Nuara acted promptly, and on December 22, 2012 he signed a contract with eRate 360 to file the overlooked Form 486 and to assume management of the School's E-rate process. On December 23rd eRate 360 filed Form 486 # 881731 for all 22 FRNs for FY 2011 on behalf of the School and mailed the certification the same day.

¹ Letter from Schools and Libraries Division, USAC, to Bert Garofano (E-rate consultant for the School) or Frank Nuara, Chief Operating Officer, Bank Street School for Children, 610 West 112th Street, New York, NY 10025-1898, dated August 22, 2012, entitled "*Form 486 Notification Letter, Funding Year 2011*" re: Form 486 Application Number 881731.

² DA 06-1871, September 14, 2006, "*Alaska Gateway School District, Tok, AK, et al.*", File Nos. SLD-412028, et al., CC Docket No. 02-6; p. 5-6.

³ Letter from Schools and Libraries Division, USAC, to Frank Nuara, Bank Street School for Children, 610 West 112th Street, New York, NY 10025-1898, dated August 22, 2012, entitled "*Form 486 Notification Letter, Funding Year 2011*" re: Form 486 Application Number 881731. *Note that the bottom of each page states "Duplicate Leter."*

Certification of Form 486 # 881731:

Form 486 # 881731 was submitted online by eRate 360 staff on December 23, 2012 at 10:13 AM ⁴; later that day, the certification was signed and mailed to SLD by Bert Garofano,⁵ the eRate 360 employee assigned to manage the School's E-rate process. Mr. Garofano mailed the certification by first class postage from the Cedar Knolls, NJ, post office at approximately noon of that same day, using the address specified by SLD. However, SLD did not process this certification.

On August 1, 2012, upon realizing that the 22 FRNs for FY 2011 did not reflect the July 1, 2011 "486 Service Start Date", Mr. Garofano called the CSB (case # 22-397858) and was advised that there was no record of the certification being received by SLD.⁶

Acting on CSB's advice, eRate 360 mailed a copy of the certification on August 2nd, which was received and processed by SLD. On August 22nd, SLD issued its letter setting the service start date for all 22 FRNs at 3/4/2012.

Alaska Gateway School District, FCC Order of Sept. 14, 2006 (Alaska Gateway):

In its Alaska Gateway ruling, the FCC approved the appeals of applicants whose "requests for funding were denied or reduced because USAC found that the FCC Form 486 was filed late" The Commission further noted that for some of the petitioners "the late filings were due to circumstances beyond their control. 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."⁷

The School respectfully points out that it was the victim of two circumstances beyond its control: the failure to receive the "486 Reminder Letter" and the failure of SLD to receive or process the December 23rd certification for Form 486 # 881731. Relying upon the *Alaska Gateway* ruling, the School asks SLD to revise the SSD for each of the 22 FRNs of Form 471 # 796250 from 3/4/2012 to 7/1/2012, thereby restoring full funding to these FRNs.

The School appreciates the SLD's consideration of its appeal. We are available to respond to questions or to provide any further information requested by the SLD.

Authorized signature for this Appeal ⁸


Richard Larson
eRate 360 Solutions, LLC
322 Route 46W, Suite 280W
Parsippany, NJ 07054

Date: 10/22/12

Phone: (888) 535-7771 ext 102
Fax: (866) 569-3019
Email: rlarson@erate360.com

⁴ FCC Form 486 # 881731 for funding year 7/1/2011 – 6/30/2012, # 881731, posted by the School on 12/23/2011,

⁵ Paper certification for Form 486 # 881731, signed by Bert Garofano, consultant for the School, dated 12/23/2011. *Note in the top margin of the page that Mr. Garofano scanned the signed certification at 12:46 PM on 12/23/2012, just prior to mailing it to SLD.*

⁶ Written statement by Bert Garofano, Compliance Officer employed by eRate 360 Solutions and assigned as consultant for the School, dated 8/2/2012.

⁷ "Alaska Gateway", p. 4.

⁸ "Letter of Agency" from Frank Nuara, Chief Operating Officer, Bank Street School for Children, authorizing employees of eRate 360 Solutions, LLC, to perform e-rate services on behalf of the School.

**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, <i>et al.</i>
Tok, AK, <i>et al.</i>)	
)	
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

¹In 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

³47 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).

⁵We 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.

⁶See 47 C.F.R. §§ 54.501-54.503.

⁷See 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).

⁸47 C.F.R. § 54.504(c).

⁹Instructions 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).

¹⁰See, 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.

¹¹See 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.

¹³2001 Form 486 Instructions at 8-10.

¹⁴Form 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.*

¹⁸47 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.

²²Eldora 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.

²⁷Because 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

²⁸See *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*).

³⁰Some 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.

³¹For 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.

³²See 47 U.S.C. § 254(h).

³³Those 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.

³⁴The 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

³⁵Such 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.

³⁶We 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

Letter of Agency

Bank Street School For Children
Billed Entity Number: 10041

Letter of Agency For FY 13 (2010 - 2011); FY 14 (2011 - 2012); FY 15 (2012 - 2013)

I hereby authorize eRate 360 Solutions, LLC and its employees: Keith C. Oakley, Steve Tenzer, Rich Larson, Carlos Alvarez, Matt Hetman, Fred Josephs, and Bert Garofano to submit FCC Form 470, FCC Form 471, and other E-rate forms, and to submit various change applications such as SPIN changes and service substitutions, to the Schools and Library Division of the Universal Service Administrative Company on behalf of **Bank Street School For Children** for all eligible services outlined in the most current "Eligible Services List" published by USAC. I understand that, in submitting these forms on our behalf, you are making certifications for **Bank Street School For Children**. By signing this Letter of Agency, I make the following certifications

- (a) I certify that **our school** is a school under the statutory definitions of elementary and secondary schools found in the No Child Left Behind Act of 2001, 20 U.S.C. §§ 7801(18) and (38), that do not operate as for-profit businesses and do not have endowments exceeding \$50 million.
- (b) I certify that our **school** has secured access, separately or through this program, to all of the resources, including computers, training, software, internal connections, maintenance, and electrical capacity, necessary to use the services purchased effectively. I recognize that some of the aforementioned resources are not eligible for support. I certify that to the extent that the Billed Entity is passing through the non-discounted charges for the services requested under this Letter of Agency, that the entities I represent have secured access to all of the resources to pay the non-discounted charges for eligible services from funds to which access has been secured in the current funding year.
- (c) I certify that our **school** is covered by a technology plan(s) that is written, that covers all 12 months of the funding year, and that has been or will be approved by a state or other authorized body, or an SLD-certified technology plan approver, prior to the commencement of priority two services. The plan(s) is written at the following level(s):
 an individual technology plan for using the services requested in this application; and/or
 higher-level technology plan(s) for using the services requested in this application; or
 no technology plan needed; applying for basic local, cellular, PCS, and/or long distance telephone service and/or voice mail only.
- (d) I certify that the services the district purchases at discounts provided by 47 U.S.C. § 254 will be used solely for educational purposes and will not be sold, resold, or transferred in consideration for money or any other thing of value, except as permitted by the rules of the Federal Communications Commission (Commission or FCC) at 47 C.F.R. § 54.500(et seq.).
- (e) I certify that our **school** has complied with all program rules and I acknowledge that failure to do so may result in denial of discount funding and/or cancellation of funding commitments. I acknowledge that failure to comply with program rules could result in civil or criminal prosecution by the appropriate law enforcement authorities.
- (f) I acknowledge that the discount level used for shared services is conditional, for future years, upon ensuring that the most disadvantaged schools and libraries that are treated as sharing in the service, receive an appropriate share of benefits from those services.

- (g) I certify that I will retain required documents for a period of at least five years after the last day of service delivered. I certify that I will retain all documents necessary to demonstrate compliance with the statute and Commission rules regarding the application for, receipt of, and delivery of services receiving schools and libraries discounts, and that if audited, I will make such records available to the Administrator. I acknowledge that I may be audited pursuant to participation in the schools and libraries program.
- (h) I certify that I am authorized to order telecommunications and other supported services for the eligible entity(ies) covered by this Letter of Agency. I certify that I am authorized to make this request on behalf of the eligible entity(ies) covered by this Letter of Agency, that I have examined this Letter, that all of the information on this Letter is true and correct to the best of my knowledge, that the entities that will be receiving discounted services under this Letter pursuant to this application have complied with the terms, conditions and purposes of the program, that no kickbacks were paid to anyone and that false statements on this form can be punished by fine or forfeiture under the Communications Act, 47 U.S.C. §§ 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. § 1001 and civil violations of the False Claims Act.
- (i) I acknowledge that FCC rules provide that persons who have been convicted of criminal violations or held civilly liable for certain acts arising from their participation in the schools and libraries support mechanism are subject to suspension and debarment from the program. I will institute reasonable measures to be informed, and will notify USAC should I be informed or become aware that I or any of the entities, or any person associated in any way with my entity and/or the entities, is convicted of a criminal violation or held civilly liable for acts arising from their participation in the schools and libraries support mechanism.
- (j) I certify, on behalf of the entities covered by this Letter of Agency, that any funding requests for internal connections services, except basic maintenance services, applied for in the resulting FCC Form 471 application are not in violation of the Commission requirement that eligible entities are not eligible for such support more than twice every five funding years beginning with Funding Year 2005 as required by the Commission's rules at 47 C.F.R. § 54.506(c).
- (k) I certify that, to the best of my knowledge, the non-discount portion of the costs for eligible services will not be paid by the service provider. I acknowledge that the provision, by the provider of a supported service, of free services or products unrelated to the supported service or product constitutes a rebate of some or all of the cost of the supported services.
- (l) I certify that I am authorized to sign this Letter of Agency and, to the best of my knowledge, information, and belief, all information provided to **eRate 360 Solutions, LLC** for E-rate submission is true.

District: Bank Street School For Children

Date: 12/22/11

Signature: 

Printed Name: Frank Nuara

Title: Chief Operating Officer