

Request For Review

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

Re: Name: **Bais Chaya Mushka**
BEN: **16061698**
Funding Year: **2012**
Application: **841703, 841751**
USAC FCDL: **12/06/2012**
USAC ADAL: **12/14/2012**

February 10, 2013

Dear Sirs.

This is a letter for a request of a Review of the referenced FCDL regarding the above captioned USAC Notification regarding the following FRN's:

FRN#: **2284008 – Century Link- NOT FUNDED-** DR1: The FRN is denied because the entity BAIS CHAYA MUSHKA requesting service within this FRN is not eligible to receive funding because it is not recognized by the State of Iowa as either elementary or secondary schools.

FRN#: **2284016 – Century Link- NOT FUNDED-** DR1: The FRN is denied because the entity BAIS CHAYA MUSHKA requesting service within this FRN is not eligible to receive funding because it is not recognized by the State of Iowa as either elementary or secondary schools.

FRN#: **2284024 – Talkspan Inc.- NOT FUNDED-** DR1: The FRN is denied because the entity BAIS CHAYA MUSHKA requesting service within this FRN is not eligible to receive funding because it is not recognized by the State of Iowa as either elementary or secondary schools.

FRN#: **2284026 – Talkspan Inc.- NOT FUNDED-** DR1: The FRN is denied because the entity BAIS CHAYA MUSHKA requesting service within this FRN is not eligible to receive funding because it is not recognized by the State of Iowa as either elementary or secondary schools.

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FRN#: **2284030 – Verizon Wireless.- NOT FUNDED-** DR1: The FRN is denied because the entity BAIS CHAYA MUSHKA requesting service within this FRN is not eligible to receive funding because it is not recognized by the State of Iowa as either elementary or secondary schools.

FRN#: **2284040 – Sprint.- NOT FUNDED-** DR1: The FRN is denied because the entity BAIS CHAYA MUSHKA requesting service within this FRN is not eligible to receive funding because it is not recognized by the State of Iowa as either elementary or secondary schools.

FRN#: **2284280 – Gulfstream Sar Inc.Sprint.- NOT FUNDED** DR1: The FRN is denied because the entity BAIS CHAYA MUSHKA requesting service within this FRN is not eligible to receive funding because it is not recognized by the State of Iowa as either elementary or secondary schools.

FRN#: **2284335 – Gulfstream Sar Inc.Sprint.- NOT FUNDED** DR1: The FRN is denied because the entity BAIS CHAYA MUSHKA requesting service within this FRN is not eligible to receive funding because it is not recognized by the State of Iowa as either elementary or secondary schools.

FRN#: **2284357 – Gulfstream Sar Inc.Sprint.- NOT FUNDED** DR1: The FRN is denied because the entity BAIS CHAYA MUSHKA requesting service within this FRN is not eligible to receive funding because it is not recognized by the State of Iowa as either elementary or secondary schools.

FRN#: **2284368 – Gulfstream Sar Inc.Sprint.- NOT FUNDED** DR1: The FRN is denied because the entity BAIS CHAYA MUSHKA requesting service within this FRN is not eligible to receive funding because it is not recognized by the State of Iowa as either elementary or secondary schools.

FRN#: **2284381 – Gulfstream Sar Inc.Sprint.- NOT FUNDED** DR1: The FRN is denied because the entity BAIS CHAYA MUSHKA requesting service within this FRN is not eligible to receive funding because it is not recognized by the State of Iowa as either elementary or secondary schools.

FRN#: **2285781 – Gulfstream Sar Inc.Sprint.- NOT FUNDED** DR1: The FRN is denied because the entity BAIS CHAYA MUSHKA requesting service within this FRN is not eligible to receive funding because it is not recognized by the State of Iowa as either elementary or secondary schools.

A review of the facts indicates that Bais Chaya Mushka operates a private elementary school which is recognized by a Third Party State agency. The local public school district, an agent of the State has clearly stated that Bais Chaya Mushka is a bona-fide educational institution serving nearly 100 students. See BCM_Appeal_2_10_2013_DOC_01.PDF & BCM_Appeal_2_10_2013_DOC_02.PDF

Although the school is not accredited, under Iowa state law, a non-accredited school is not excluded under the definition of a school as defined in 20 U.S.C. § 7801(18). Iowa State code 281—12.1(5) clearly makes mention of non-accredited schools: "...A nonpublic school shall be nonaccredited on the date established by the resolution of the state board, which shall be no later than the end of the school year in which the nonpublic school is declared to be nonaccredited." As stated in the preamble to that code, the purpose of accreditation is as follows: "General accreditation standards are intended to fulfill the state's responsibility for making available an appropriate educational program that has high expectations for all students in Iowa. The accreditation standards ensure that each child has access to an educational program that meets the needs and abilities of the child regardless of race, color, national origin, gender, disability, religion, creed, marital status, geographic location, sexual orientation, gender identity, or socioeconomic status."

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The fact that a school is not accredited does not negate its definition as a school defined under State and Federal law and does not negate the fact that it is providing education to nearly 100 students which should entitle the school to full E-rate funding.

Failure to restore this FRN **expeditiously** places considerable hardship on the school which requires its funding to function properly.

The FCC has ruled in:

Federal Communications Commission FCC 01-73
Before the
Federal Communications Commission
Washington, D.C. 20554
In the Matter of
Request for Review of a Decision of the
Universal Service Administrative Company by
Naperville Community Unit
School District 203
Naperville, Illinois
Federal-State Joint Board on Universal
Service
Changes to the Board of Directors of the
National Exchange Carriers Association, Inc.
(
(
File No. SLD-203343
CC Docket No. 96-45

CC Docket No. 97-21

ORDER

Adopted: February 22, 2001 Released: February 27, 2001

II. DISCUSSION

9. **At the outset, we emphasize that our primary objective is to ensure that schools and libraries benefit from the schools and libraries universal service support mechanism as contemplated by the statute.** For purposes of considering this Request for Review, this means we must balance the need to minimize administrative costs, while expediting fair and efficient

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review of applications. With that objective in mind, we consider the circumstances surrounding SLD's return of Naperville's FCC Form 471 for failure to meet SLD's minimum processing standards.

And in

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

| | | |
|---|---|-------------------------------------|
| In the Matter of |) | |
| |) | |
| Request for Review of the |) | |
| Decision of the |) | |
| Universal Service Administrator by |) | |
| |) | |
| Bishop Perry Middle School |) | File Nos. SLD-487170, <i>et al.</i> |
| New Orleans, LA, <i>et al.</i> |) | |
| |) | |
| Schools and Libraries Universal Service |) | CC Docket No. 02-6 |
| Support Mechanism |) | |

ORDER

Adopted: May 2, 2006

Released: May 19, 2006

By the Commission: Commissioner Copps issuing a separate statement.

While the Bureau has enforced existing filing deadlines for the E-rate program,¹ we find that good cause exists to waive the procedural deadline in these cases. We find that given that the violation at issue is procedural, not **substantive**, we find that a complete rejection of each of these applications is not warranted, especially given that the error in these cases is not the fault of the applicants. **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 revealed by the record in these matters. 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.² We therefore grant these appeals and remand them to USAC for further processing consistent with this Order.

¹ See, e.g., *North Dakota Order*, 17 FCC Rcd at 7389, para. 13; *Wilmington Public Schools Order*, 17 FCC Rcd at 12071, paras. 7-8; *South Barber Order*, 16 FCC Rcd at 18437-38, para. 7.

² See 47 U.S.C. § 254(h).

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We therefore submit that the FRN submitted above shall be funded as submitted since the school is recognized by agents of the state and the non-accredited status of the school is not relevant for E-rate funding purposes.

Sincerely,

Sincerely,



Daniel Hochman
Consultant
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F:201-458-1215
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LOA Attached