

## Request For Waiver

Letter of Appeal  
Schools and Libraries Division - Correspondence Unit  
100 S. Jefferson Rd  
P.O. Box 902  
Whippany, NJ 07981

Re: Name: **Boulevard Nursery School**  
BEN: **11644**  
Funding Year: **2013**  
Application: **917556**  
FCDL Date: **11/272013**

January 26, 2014

Dear Sirs.

This is a letter of **APPEAL** regarding the above captioned FCDL's regarding the following FRN:

FRN#: **2502314 – Verizon Wireless - NOT FUNDED-** This FRN is denied because the Item 21 Attachment was not received on or before the filing deadline. The Item 21 Attachment is an FCC Form 471 Window filing requirement. You failed to provide sufficient documentation demonstrating the Item 21 Attachment was submitted timely. FCC Forms 471 with Item 21 Attachments that met the FCC Form 471 Window requirements have funding priority over applications received after the filing deadline. Given that funding demand for FCC Forms 471 filed within the window exceeds the amount available for commitment, we cannot consider this FRN for funding.

The Attachment 21 was mistakenly left out of a batch of Attachments 21's that were filed March 9, 2013. See Attached Items 21's faxed.

Request For Waiver Letter  
Boulevard Nursery School BEN: 11644  
CC Docket No. 02-6 CC Docket No. 96-45

The FCC has ruled in:

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Requests for Review and/or Requests for Waiver of Decisions of the Universal Service Administrator by	)	
	)	
Imagine College Preparatory High School St. Louis, Missouri, <i>et al.</i>	)	File Nos. SLD-752453, <i>et al.</i>
	)	
Schools and Libraries Universal Service Support Mechanism	)	CC Docket No. 02-6
	)	

**ORDER**

**Adopted: May 31, 2012**

**Released: May 31, 2012**

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

Consistent with precedent,<sup>1</sup> we grant five requests from petitioners<sup>2</sup> seeking review of decisions made by the Universal Service Administrative Company (USAC) under the E-rate program (more formally known as the schools and libraries universal service support program).<sup>3</sup> In each case, USAC denied or reduced funding because it found that the applicants **failed to respond to its requests for additional information within the USAC-specified time frame.** Based on our review of the record, we find that the five petitioners have demonstrated that good cause exists to justify waiver of USAC's filing deadline and allow the applicants another opportunity to respond to USAC's requests for further information.<sup>4</sup> We also dismiss an appeal filed by Yeshiva Mesivta Wiznitz USA (Yeshiva) because its

<sup>1</sup> *Requests for Review of the Decision of the Universal Service Administrator by Alpaugh Unified School District et al.*, File Nos. SLD-523576, *et al.*, CC Docket No. 02-6, Order, 22 FCC Rcd 6035 (2007) (*Alpaugh Unified School District Order*) (granting 78 appeals of applicants denied funding because they failed to respond to USAC's request for information within the USAC-specified time frame); *Requests for Review and/or Waiver of the Decision of the Universal Service Administrator by Burlington Township School District, et al.*, File Nos. SLD-739222, *et al.*, CC Docket No. 02-6, Order, 26 FCC Rcd 10951 (Wireline Comp. Bur. 2011) (granting five appeals of applicants denied funding because they failed to respond to USAC's request for information within the USAC-specified time frame).

<sup>2</sup> The requests for review and those for waiver and review that are granted by this order are listed in Appendix A. The applications covered by those requests for review are listed in Appendices A and B.

<sup>3</sup> 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).

<sup>4</sup> Generally, the Commission's rules may be waived if good cause is shown. 47 C.F.R. § 1.3. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*). In addition, the Commission may take into account considerations of hardship, equity, or more effective

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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 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.

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implementation of overall policy on an individual basis. *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166. Waiver of the Commission's rules is appropriate only if both (i) special circumstances warrant a deviation from the general rule, and (ii) such deviation will serve the public interest. *NetworkIP, LLC v. FCC*, 548 F.3d 116, 125-128 (D.C. Cir. 2008); *Northeast Cellular*, 897 F.2d at 1166.

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CC Docket No. 02-6 CC Docket No. 96-45

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,<sup>5</sup> 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.<sup>6</sup> We therefore grant these appeals and remand them to USAC for further processing consistent with this Order.**

We therefore submit that the Boulevard Nursery School mistakenly did not file its attachment 21’s before the deadline and the requirement should be waived.. The service requested is a non-contracted Telecomm Service that had been funded in Year 2012 as FRN 2349214. FCC has ruled on precedent and has waived that requirement in the interest of the public good or else the school will experience undue hardship that goes counter to the goals of the E-rate program.

<sup>5</sup> 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.

<sup>6</sup> See 47 U.S.C. § 254(h).

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CC Docket No. 02-6 CC Docket No. 96-45

Sincerely,

A handwritten signature in black ink, appearing to read "Richard Bernstein". The signature is written in a cursive, slightly slanted style.

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LOA Attached