

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of
Requests for Waiver and Review of
Decisions of the
Universal Service Administrator by
Academy of Accelerated Learning, Inc.
Houston, Texas et al.
Schools and Libraries Universal Service
Support Mechanism
File Nos. SLD-853062 et al.
CC Docket No. 02-6

ORDER

Adopted: May 15, 2013

Released: May 15, 2013

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

1. Consistent with precedent,1 we address requests from petitioners seeking review of 106 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) finding that petitioners failed to file their FCC Form 471 applications by the filing window deadline.2 We grant

1 See Requests for Review of the Decisions of the Universal Service Administrator by Academy of Math and Science et al., Schools and Libraries Universal Service Support Mechanism, File Nos. SLD-487009 et al., CC Docket No. 02-6, Order, 25 FCC Rcd 9256, 9259-60, paras. 8 & 9 (2010) (Academy of Math and Science Order) (finding special circumstances exist to justify granting waiver requests where, for example, petitioners filed their FCC Forms 471 within 14 days after the FCC Form 471 filing window deadline; filed their Forms 471 on time, but failed to timely file their certifications; or filed within 30 days despite medical issues); Requests for Waiver and Review of the Decisions of the Universal Service Administrator by Academy for Academic Excellence et al., Schools and Libraries Universal Service Support Mechanism, File Nos. SLD-539076 et al., CC Docket No. 02-6, Order, 22 FCC Rcd 4747, 4749, para. 4 (Wireline Comp. Bur. 2007) (finding special circumstances exist to justify granting waiver requests where petitioners were unable to file on time due to reorganizations or severe weather, but still filed within a reasonable time); Requests for Review of the Decisions of the Universal Service Administrator by Anderson Elementary School et al., Schools and Libraries Universal Service Support Mechanism, File Nos. SLD-789495 et al., CC Docket No. 02-6, Order, 27 FCC Rcd 5319, 5319-20, para. 2 (Wireline Comp. Bur. 2012) (treating late-filed item 21 attachments like late-filed certifications).

2 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). Section 54.507(c) of the Commission's rules provides for E-rate funds to be made available on a first-come, first-served basis, but requires USAC to implement an initial funding window that treats all applicants filing within that window as if their applications were simultaneously received. 47 C.F.R. § 54.507(c). The requests for review are listed in Appendices A-D. Although some petitioners did not explicitly request a waiver of the FCC Form 471 application filing window deadline, we treat as requests for waiver all of the requests for review involving FCC Form 471 applications that were submitted after the relevant filing window deadline.

requests concerning 80 applicants, grant in part and deny in part one request, and deny requests by 25 applicants.<sup>3</sup>

2. Based on the facts and circumstances of these specific cases, we find that good cause exists to grant the requests for review for the 81 applications listed in Appendices A-C.<sup>4</sup> We grant the two requests listed in Appendix A because we find that the applications were filed within the filing window.<sup>5</sup> We grant the 57 waiver requests listed in Appendix B because each of those petitioners filed its applications within 14 days of the close of the filing window.<sup>6</sup> We grant the 22 waiver requests listed in Appendix C because each of those petitioners filed 1) its application within 14 days of the close of the filing window, but for their certifications or item 21 attachments, 2) its application within a reasonable period from the close of the window despite the person responsible for submitting the form or a close family member of that person suffering an unexpected illness or death, 3) its application within a reasonable period from the close of the window even though the entity was undergoing reorganization or suffering from severe weather, or 4) a waiver request before the close of the filing window and could have filed its applications within 14 days of the close of the filing window.<sup>7</sup> We deny the requests of the 26 applicants listed in Appendix D because we find that the petitioners have failed to present special circumstances justifying waivers of the Commission's rules.<sup>8</sup>

3. At this time, we find no evidence of waste, fraud and abuse in the record with respect to the petitioners for which we grant relief. We therefore remand the underlying applications listed in Appendices A through C to USAC for further action consistent with this order. In remanding these applications to USAC, we make no finding as to the ultimate eligibility of the services or the petitioners' applications.

4. 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 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 or requests for waiver filed by the petitioners listed in Appendices A through C ARE GRANTED and their underlying applications ARE REMANDED to USAC for further consideration in accordance with the terms of this order.

5. 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,

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<sup>3</sup> See Appendices A-D. We grant in part and deny in part the request of Nosotros Academy, which seeks a waiver for two different applications. We find that one of the applications (931755) was filed shortly after the filing window, justifying a waiver, while the other (933490) was filed significantly later, without any special circumstances to justify a waiver. The former application is listed in Appendix B, while the latter is listed in Appendix D.

<sup>4</sup> See Appendices A-C. 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 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. *Northeast Cellular*, 897 F.2d at 1166.

<sup>5</sup> See Appendix A.

<sup>6</sup> See Appendix B.

<sup>7</sup> See Appendix C.

<sup>8</sup> See Appendix D.

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 section 54.507(c) of the Commission's rules, 47 C.F.R. § 54.507(c), IS WAIVED for the petitioners listed in Appendices B and C to the limited extent provided herein.

6. 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 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the requests for review or requests for waiver filed by the petitioners listed in Appendix D ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Kimberly A. Scardino  
Chief  
Telecommunications Access Policy Division  
Wireline Competition Bureau

## APPENDIX A

**Requests Granted  
FCC Form 471 Applications Filed Within the Filing Window**

<b>Petitioner</b>	<b>Application Number</b>	<b>Funding Year</b>	<b>Date Request for Review/Waiver Filed</b>
Academy of Accelerated Learning, Inc. Houston, TX	853062	2012	Mar. 7, 2013
Vireva Nursery School & Kindergarten Chicago, IL	852623	2012	Mar. 4, 2013

## APPENDIX B

**Requests Granted  
FCC Form 471 Applications Filed Within 14 Days of the Close of the Filing Window**

<b>Petitioner</b>	<b>Application Number(s)</b>	<b>Funding Year</b>	<b>Date(s) Request for Review/Waiver Filed</b>
Annunciation BVM School McSherrystown, PA	933291	2013	Apr. 8, 2013
Bandera Independent School District Bandera, TX	932270	2013	Apr. 5, 2013
Bland County School Board Bastian, VA	931787	2013	Mar. 26, 2013
Brookfield Academy Cherry Hill, NJ	931655, 931829	2013	Mar. 21, 2013
Canfield Local School District Canfield, OH	932856	2013	Mar. 29, 2013
Cedar Hill Independent School District Cedar Hill, TX	932985	2013	Apr. 11, 2013
Collier County Public Library Naples, FL	908919	2013	Mar. 4, 2013
Cornerstone Christian Academy Tillar, AR	896989	2013	Apr. 9, 2013
Crescent View West Charter Fresno, CA	896933	2013	Apr. 4, 2013
David's Star Evangelical Lutheran School Jackson, WI	932471	2013	Apr. 13, 2013
Eagle College Prep II, Inc. Phoenix, AZ	895163	2013	Apr. 4, 2013
Eagle South Mountain Charter, Inc. Phoenix, AZ	895181	2013	Apr. 4, 2013
Eccles-Lesher Memorial Library Rimersburg, PA	931907	2013	Apr. 2, 2013
Elizabeth Seton Academy Dorchester, MA	932992	2013	Apr. 9, 2013
Erskine Academy South China, ME	932311	2013	Mar. 22, 2013

<b>Petitioner</b>	<b>Application Number(s)</b>	<b>Funding Year</b>	<b>Date(s) Request for Review/Waiver Filed</b>
Grace Christian School Staunton, VA	931714	2013	Apr. 2, 2013
Gunnison-Watershed District RE 1 J Gunnison, CO	904351	2013	Mar. 21, 2013
Houston School District Houston, MS	921116	2013	Apr. 5, 2013
Humble Independent School District Humble, TX	932572	2013	Apr. 11, 2013
Jeff Davis County School District Hazelhurst, GA	930774	2013	Mar. 15, 2013
JS Clark Leadership Academy Opelousas, LA	924633	2013	Apr. 10, 2013
King George County School District King George, VA	932052	2013	Mar. 21, 2013
Lapwai School District 341 Lapwai, ID	932873	2013	Apr. 9, 2013
Lexington Independent School District Lexington, TX	932200	2013	Apr. 11, 2013
Mannheim School District 83 Franklin Park, IL	921591	2013	Mar. 18, 2013
Maple Creek Elementary School District Korbel, CA	923408	2013	Apr. 23, 2013
Miller Memorial Library Hamden, CT	931687	2013	Mar. 15, 2013
Modoc County Library Alturas, CA	924989	2013	Mar. 20, 2013
Moravian Academy Bethlehem, PA	932874 f/k/a 912870	2013	Mar. 14, 2013 revised on Mar. 20, 2013
Neosho School District R 5 Neosho, MO	932964	2013	Apr. 11, 2013
North Branch Township Library North Branch, MI	933628, 933747, 933749	2013	Apr. 12, 2013
Nosotros Academy Tucson, AZ	931755	2013	Apr. 9, 2013
Oberlin Public Library Oberlin, OH	932988	2013	Apr. 3, 2013
Oberlin Unified School District 294 Oberlin, KS	932987	2013	Apr. 4, 2013
Options Head Start South El Monte, CA	932089, 932108, 932109, 932215	2013	Apr. 2, 2013
Parents in Community Action, Inc. Minneapolis, MN	932604	2013	Apr. 23, 2013
Paxton Consolidated Schools Paxton, NE	931871	2013	Mar. 25, 2013
Put in Bay Local School District Put in Bay, OH	931807	2013	Feb. 20, 2013 supplemented Mar. 19, 2013

<b>Petitioner</b>	<b>Application Number(s)</b>	<b>Funding Year</b>	<b>Date(s) Request for Review/Waiver Filed</b>
Putnam County Public Library Cookeville, TN	928754	2013	Mar. 28, 2013
Regional School District 10 Burlington, CT	932107	2013	Mar. 28, 2013
Rutland Southwest Supervisory Union Poultney, VT	931831	2013	Mar. 22, 2013
St. Anne Catholic School Wichita, KS	932091	2013	Mar. 15, 2013
St. Bernard's Central Catholic HS Fitchburg, MA	931713	2013	Mar. 27, 2013
St. Joseph Academy Cleveland, OH	932656	2013	Mar. 28, 2013
St. Mary Central School Martins Ferry, OH	932408	2013	Apr. 1, 2013
St. Patrick Elementary School McCook, NE	932038, 932189	2013	Mar. 21, 2013
Salem School District Salem, CT	931887	2013	Apr. 8, 2013
Sandown Public Library Sandown, NH	932775	2013	Apr. 2, 2013
Santiam Canyon School District 129 J Mill City, OR	919125	2013	Apr. 3, 2013
Satsop Elementary School Satsop, WA	931992	2013	Apr. 1, 2013
Stonington Township Library Stonington, IL	906067	2013	Mar. 28, 2013
Sturgeon School District R 5 Sturgeon, MO	932518	2013	Apr. 11, 2013
Sullivan County School District Laporte, PA	928565	2013	Mar. 29, 2013
Tuscarawas County Board of Mental Retardation & Developmental Disabilities New Philadelphia, OH	925856	2013	Mar. 28, 2013
Upper Dublin School District Maple Glen, PA	922162	2013	Mar. 19, 2013
Upper Moreland Free Public Library Willow Grove, PA	924837	2013	Mar. 15, 2013
Wayne Library Authority Honesdale, PA	932437	2013	Mar. 25, 2013

## APPENDIX C

**Requests Granted  
Waivers Granted for Other Special Circumstances**

<b>Petitioner</b>	<b>Application Number(s)</b>	<b>Funding Year</b>	<b>Date(s) Request for Review/Waiver Filed</b>
Be'er Hagolah Institutes Brooklyn, NY	787395	2011	Mar. 12, 2013
Carmi Public Library Carmi, IL	933650	2013	Apr. 23, 2013
Carter County School District Grayson, KY	838595	2012	Feb.21, 2013
Chama Valley Independent School District Tierra Amarill, NM	869373	2012	Feb. 20, 2013
Coleman Tech Charter High School San Diego, CA	931945	2013	Mar. 25, 2013
Diocese of Arlington E-rate Consortium Arlington, VA	868846	2012	Mar. 29, 2013
Glenbrook School Minden, LA	867803	2012	Feb. 19, 2013
Grace Classical Academy Laguna Nigel, CA	931614	2013	Mar. 18, 2013
Hinton Independent School District 161 Hinton, OK	865773	2012	Apr. 1, 2013
Jo Daviess Carroll Area Vocational Center Elizabeth, IL	933287	2013	Apr. 4, 2013
Juan Diego Academy Mission, TX	933052	2013	Apr. 3, 2013
Ludlow Grade School Ludlow, IL	934447	2013	Mar. 21, 2013
North Hudson Community Action Head Start West New York, NJ	933468	2013	Mar. 13, 2013
Northern Penobscot Tech Region III Lincoln, ME	933015	2013	Mar. 4, 2013
Palmyra Public Library Palmrya, PA	933428	2013	Apr. 5, 2013
Pike-Delta-York School District Delta, OH	841910	2012	Mar. 15, 2013
St. Joseph Regional High School Montvale, NJ	910400, 933269	2013	Mar. 11, 2013 & Apr. 8, 2013
St. Louis the King School at the Cathedral St. Louis, MO	932631	2013	Mar. 28, 2013
St. Rose School Clintonville, WI	932977	2013	Mar. 29, 2013

<b>Petitioner</b>	<b>Application Number(s)</b>	<b>Funding Year</b>	<b>Date(s) Request for Review/Waiver Filed</b>
UFT Charter School Brooklyn, NY	862598	2012	Jan. 28, 2013
University Preparatory School Denver, CO	933328	2013	Mar. 7, 2013
Waupaca School District Waupaca, WI	933290	2013	Apr. 5, 2013

**APPENDIX D****Requests Denied**

<b>Petitioner</b>	<b>Application Number</b>	<b>Funding Year</b>	<b>Date Request for Review/Waiver Filed</b>
Alexander Findley Community Library Findley Lake, NY	933611	2013	Apr. 15, 2013
Berne Public Library Berne, IN	933547	2013	Apr. 8, 2013
Bucklin R-2 School Bucklin, MO	933571	2013	Apr. 16, 2013
Cainsville R-1 School District Cainsville, MO	933508	2013	Apr. 17, 2013
Charlotte Independent School District Charlotte, TX	933489	2013	Apr. 8, 2013
Duval County School District Jacksonville, FL	933467	2013	Apr. 15, 2013
Ector County Library Odessa, TX	933788	2013	Apr. 15, 2013
Fresno Academy for Civic and Entrepreneurial Leadership Fresno, CA	929101	2013	Mar. 26, 2013
Golconda Public Library Golconda, IL	933867	2013	Apr. 17, 2013
Intown Charter Academy Atlanta, GA	924121	2013	Apr. 16, 2013
Martinsville Community Library Martinsville, IL	did not file	2013	Apr. 22, 2013
Milanof-Schock Library Mt. Joy, PA	933847	2013	Apr. 19, 2013
North Lakes Academy Forest Lake, MN	933387	2013	Apr. 9, 2013
Nosotros Academy Tucson, AZ	933490	2013	Apr. 9, 2013
Our Saviors Lutheran School Albany, NY	933507	2013	Apr. 12, 2013
Piscataway Public Library Piscataway, NJ	932643	2013	Apr. 1, 2013



<b>Petitioner</b>	<b>Application Number</b>	<b>Funding Year</b>	<b>Date Request for Review/Waiver Filed</b>
St. Charles Borromeo School Saint Charles, MO	933707	2013	Apr. 11, 2013
San Domenico Upper School Girls San Anselmo, CA	933947	2013	Apr. 19, 2013
Sayre Public Library Sayre, PA	921511	2013	Apr. 10, 2013
School Administrative District 8 Vinalhaven, ME	933227	2013	Apr. 11, 2013
Speech and Language Development Center Buena Park, CA	did not file	2013	Mar. 12, 2013
Spring Union Free School District East Hampton, NY	933811	2013	Apr. 23, 2013
Steel Valley School District Munhall, PA	932790	2013	Apr. 2, 2013
Walla Walla County Rural Library District Walla Walla, WA	933568	2013	Apr. 11, 2013
Westview School Los Angeles, CA	933367	2013	Mar. 28, 2013
York City School District York, PA	917088	2013	Apr. 2, 2013