

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 )
A Special Place ) File No. SLD-993529 et al.
Santa Rosa, CA et al. )
Schools and Libraries Universal Service ) CC Docket No. 02-6
Support Mechanism )

ORDER AND ORDER ON RECONSIDERATION

Adopted: May 29, 2014

Released: May 29, 2014

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

1. Consistent with precedent,<sup>1</sup> we address requests from 96 applicants 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>2</sup> and one petition for reconsideration of a decision of the Wireline Competition Bureau (Bureau).<sup>3</sup> The petitioners seek

1 See Requests for Waiver and Review of Decisions of the Universal Service Administrator by Academy of Math and Science et al.; Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, Order, 25 FCC Rcd 9256, 9259-60, paras. 8 & 9 (2010) (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 FCC 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 Decisions of the Universal Service Administrator by Anderson Elementary School et al.; Schools and Libraries Universal Service Support Mechanism, 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); Requests for Waiver of Decisions of the Universal Service Administrator by Academy for Academic Excellence et al.; Schools and Libraries Universal Service Support Mechanism, 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, but still filed within a reasonable time); Requests for Waiver and Review of Decisions of the Universal Service Administrator by Ashtabula Area City Schools et al.; Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, Order, 28 FCC Rcd 4051 (Wireline Comp. Bur. 2013) (dismissing petitions for reconsideration because the petitioners failed to identify any material error, omission, or reason warranting reconsideration, and relied on arguments fully considered and rejected by the Bureau within the same proceeding).

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).

3 The Bureau has the authority to act on petitions requesting reconsideration of final actions taken pursuant to delegated authority. 47 C.F.R. § 1.106(a)(1).

waivers of the FCC Form 471 application filing window deadline under the E-rate program.<sup>4</sup> Based on the facts and special circumstances of these specific cases, we find that good cause exists to grant the requests for review for the applications of the petitioners listed in Appendices A and B.<sup>5</sup> We grant the 57 requests listed in Appendix A, because each of those applicants filed its application(s) within 14 days of the close of the filing window.<sup>6</sup> We grant the waiver requests listed in Appendix B because each those nine petitioners filed its application within 14 days of the close of the filing window, except for the related certifications or item 21 attachments, or filed within 30 days of the close of the filing window, despite an unexpected serious illness or death of the person responsible for submitting the form or a close family member of that person, or despite a school reorganization.<sup>7</sup> 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 and B 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.

2. We deny the requests of the 30 applicants listed in Appendix C because we find that the petitioners have failed to present special circumstances justifying waivers of the Commission's rules.<sup>8</sup> We also dismiss the petition for reconsideration listed in Appendix D because it fails to identify any material error, omission, or reason warranting reconsideration, and relies on arguments that have been fully considered and rejected by the Bureau within the same proceeding.<sup>9</sup>

3. ACCORDINGLY, IT IS ORDERED, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and 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 waiver and review filed by the petitioners listed in Appendices A and B ARE GRANTED and their underlying applications ARE REMANDED to USAC for further consideration in accordance with the terms of this Order.

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

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<sup>4</sup> The requests for review are listed in Appendices A and B. 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). 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.

<sup>5</sup> See Appendices A and B. 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>6</sup> See Appendix A.

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

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

<sup>9</sup> See Appendix D; 47 C.F.R. § 1.106(p)(1), (3).

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

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, 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 waiver and review filed by the petitioners listed in Appendix C ARE DENIED.

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, 1.3, 1.106 and 54.722(a) of the Commission’s rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, 1.106 and 54.722(a), that the petition for reconsideration listed in Appendix D IS DISMISSED.

FEDERAL COMMUNICATIONS COMMISSION

Vickie S. Robinson  
Acting Chief  
Telecommunications Access Policy Division  
Wireline Competition Bureau

## APPENDIX A

**Requests for Waiver and Review 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 Request for Review/Waiver Filed</b>
All Saints High School Bay City, MI	991881	2014	Apr. 10, 2014
Apple Academy Charter Public Schools Los Angeles, CA	986919, 991135	2014	May 13, 2014
Berthoud Public Library Berthoud, CO	991960	2014	Mar. 31, 2014
Billings Independent School District 2 Billings, OK	992149	2014	Apr. 2, 2014
Castlefjord Joint School District 417 Castlefjord, ID	992369	2014	May 5, 2014
Charlotte County School District Charlotte Court House, VA	962587	2014	Apr. 16, 2014
Colfax School District 300 Colfax, WA	992456	2014	Apr. 7, 2014
Colorado Alliance of Research Libraries Denver, CO	992411	2014	Apr. 2, 2014
Columbia Board of Education Columbia, CT	992056, 992070	2014	Apr. 3, 2014
Commack Public Library Commack, NY	992098	2014	Mar. 28, 2014
Covington Catholic High School Covington, KY	992168	2014	Apr. 7, 2014
De Sales High School Louisville, KY	984314	2014	Mar. 27, 2014
DePue Unit School District 103 DePue, IL	961530	2014	Apr. 9, 2014
Detroit Service Learning Academy Detroit, MI	993077	2014	Apr. 28, 2014
Ed-Options High School Tempe, AZ	992349	2014	Apr. 9, 2014
Falls City Library & Arts Center Falls City, NE	992012	2014	Apr. 8, 2014
Grand View School District 34 Tahlequah, OK	993103, 993109	2014	May 14, 2014
Hood River County School District Hood River, OR	960364	2014	Apr. 2, 2014
Huntingburg Public Library Huntingburg, IN	992436	2014	Mar. 25, 2014
Immaculate Conception Catholic Regional School Cranston, RI	992032	2014	Mar. 28, 2014
International Academy of Saginaw Saginaw, MI	992102	2014	Apr. 11, 2014

<b>Petitioner</b>	<b>Application Number(s)</b>	<b>Funding Year</b>	<b>Date Request for Review/Waiver Filed</b>
Kent Intermediate School District Grand Rapids, MI	992088	2014	Apr. 2, 2014
LaMoure Public School LaMoure, ND	992909	2014	Mar. 26, 2014
Lighthouse Point Library Lighthouse Point, FL	981039	2014	Apr. 9, 2014
Locust Grove School District Locust Grove, OK	993091	2014	May 14, 2014
Loudoun County Public Library Leesburg, VA	993049	2014	Apr. 9, 2014
Lower Merion School District Ardmore, PA	993069	2014	Apr. 24, 2014
Magnolia Independent School District Magnolia, TX	993020	2014	May 14, 2014
Marceline School District R5 Marceline, MO	992783	2014	Apr. 29, 2014
Martin County West School District Sherburn, MN	993074	2014	Mar. 21, 2014
Mason Independent School District 2 Mason, OK	992437	2014	May 14, 2014
Mid-Michigan Leadership Academy Lansing, MI	991894	2014	Apr. 14, 2014
Morrison Public Schools Morrison, OK	991974	2014	Apr. 10, 2014
North DuPage Special Education Cooperative Roselle, IL	992429	2014	Apr. 4, 2014
North Idaho Stem Charter Academy Rathdrum, ID	992127	2014	Apr. 28, 2014
Northeast Community School District Goose Lake, IA	985011	2014	Apr. 9, 2014
Northern Wayne Community Library Lakewood, PA	991933	2014	Apr. 4, 2014
Notus School District 135 Notus, ID	992652	2014	Apr. 18, 2014
Orange County School District Orlando, FL	992222, 992291	2014	Apr. 4, 2014
Oregon County Library District Alton, MO	973827	2014	Apr. 11, 2014
Pamunkey Regional Library Hanover, VA	993099	2014	Apr. 9, 2014
Providence Public Library Providence, RI	968991	2014	Apr. 7, 2014
Ririe Joint School District 252 Ririe, ID	991968	2014	Apr. 21, 2014
Robertson Memorial Library Higginsville, MO	989655	2014	Apr. 10, 2014
Rockford Christian School Rockford, IL	992908	2014	Apr. 8, 2014

<b>Petitioner</b>	<b>Application Number(s)</b>	<b>Funding Year</b>	<b>Date Request for Review/Waiver Filed</b>
St. Elizabeth R-IV District St. Elizabeth, MO	991957	2014	Mar. 27, 2014
Shannon County School District 65-1 Batesland, SD	992439	2014	Apr. 7, 2014
Sullivan County Head Start, Inc. Woodbourne, NY	992111	2014	Apr. 1, 2014
Talmudical Academy – Baltimore Baltimore, MD	993100	2014	Apr. 25, 2014
Thunderbird Preparatory Academy Cornelius, NC	992689	2014	Apr. 8, 2014
Triad Math & Science Academy Greensboro, NC	992030	2014	Apr. 22, 2014
Turning Point Consortium Fort Collins, CO	993004	2014	Apr. 8, 2014
Vinton County Local School District McArthur, OH	974711	2014	Apr. 17, 2014
Washington Union Elementary School District Salinas, CA	993002	2014	Apr. 21, 2014
Wayne Preparatory Academy Goldsboro, NC	992691	2014	Apr. 8, 2014
Westside Consolidated School District 5 Jonesboro, AR	963524	2014	Apr. 8, 2014
Yreka Union High School District Yreka, CA	992060	2014	Apr. 29, 2014

## APPENDIX B

### Requests for Waiver and Review Granted Waivers Granted for Special Circumstances

<b>Petitioner</b>	<b>Application Number(s)</b>	<b>Funding Year</b>	<b>Date Request for Review/Waiver Filed</b>
Avon Grove Library West Grove, PA	993349	2014	Apr. 22, 2014
Fajardo Academy Fajardo, PR	889674 (FRN 2418861)	2013	Apr. 23, 2014
Kewanee School District 229 Kewanee, IL	993368, 993388, 993428, 993429, 993430	2014	Apr. 17, 2014
Laboratory Charter School for Communications and Languages Bala Cynwyd, PA	992430	2014	Apr. 21, 2014
Norwood Library Norwood, NY	924992	2013	Mar. 19, 2014
Our Community School Chatsworth, CA	993097	2014	Apr. 11, 2014

<b>Petitioner</b>	<b>Application Number(s)</b>	<b>Funding Year</b>	<b>Date Request for Review/Waiver Filed</b>
Southern Utah University Head Start District Cedar City, UT	993092	2014	May 13, 2014
Stinson Memorial Public Library District Anna, IL	993110	2014	Apr. 29, 2014
Yeshiva Ktana of Passaic Passaic, NJ	992690	2014	Apr. 28, 2014

### APPENDIX C

#### Requests for Waiver and Review Denied

<b>Petitioner</b>	<b>Application Number(s)</b>	<b>Funding Year</b>	<b>Date Request for Review/Waiver Filed</b>
A Special Place Santa Rosa, CA	993529	2014	Apr. 21, 2014
Barnesville Hutton Memorial Library Barnesville, OH	993208	2014	Apr. 18, 2014
Carib Christian School Aguadilla, PR	993293, 993351	2014	Apr. 24, 2014
Cedar Grove-Belgium Area School District Cedar Gove, WI	993548	2014	Mar. 24, 2014
Chilton School District Chilton, WI	993191	2014	Apr. 21, 2014
Clayton Town & County Library Clayton, AL	993433	2014	Apr. 28, 2014
Coon Rapids-Bayard CSD Coon Rapids, IA	993150	2014	Apr. 14, 2014
Crestwood Community Unit School District 4 Paris, IL	994149	2014	May 5, 2014
Dayton City School District Dayton, OH	961495, 962167	2013	May 15, 2014
El Paso Public Library El Paso, TX	994289	2014	May 8, 2014
Elmsford Union Free School District Elmsford, NY	993509	2014	Mar. 26, 2014
Fairhill Community High School Philadelphia, PA	993511	2014	Apr. 29, 2014
Fraser Woods Montessori School Newtown, CT	991954	2014	May 6, 2014
Linwood Public Charter School Shreveport, LA	994151	2014	May 5, 2014
Marion Independent School District Marion, TX	993090	2013	May 1, 2014
Maryland State Department of Education Baltimore, MD	979905	2014	Mar. 28, 2014
Menifee County School District Frenchburg, KY	993648	2014	Apr. 28, 2014

<b>Petitioner</b>	<b>Application Number(s)</b>	<b>Funding Year</b>	<b>Date Request for Review/Waiver Filed</b>
Monte del Sol Charter School Santa Fe, NM	993309, 993310	2014	Apr. 29, 2014
New Life Christian Academy Troy, AL	993001	2014	May 1, 2014
Newark Preschool Council Newark, NJ	993508	2014	May 5, 2014
One Bright Ray Community High School – Fairhill Campus Simpson Campus Philadelphia, PA	993511 993528	2014	Apr. 25, 2014
Pawnee School – Weld County School District RE-12 Grover, CO	993169	2014	Apr. 15, 2014
Restoration Academy Fairfield, AL	993269	2014	May 7, 2014
St. Mary School Vermilion, OH	992982	2014	May 1, 2014
St. Patrick High School Chicago, IL	994368	2014	May 14, 2014
South Lemhi School District 292 Leadore, ID	989673	2014	Apr. 30, 2014
Van Independent School District Van, TX	993688	2014	May 2, 2014
Virtual Schoolhouse Inc. Cleveland, OH	994049	2014	May 7, 2014
Wright Memorial Library Dayton, OH	994169	2014	May 14, 2014
Zion Lutheran Church School San Francisco, CA	993448	2014	Apr. 17, 2014

#### APPENDIX D

##### Petition for Reconsideration Dismissed

<b>Petitioner</b>	<b>Application Numbers</b>	<b>Funding Year</b>	<b>Date Petition for Reconsideration Filed</b>
Elizabeth School District Elizabeth, NJ	935749, 935750, 935751, 935769, 935770, 935771, 935772	2012	Mar. 27, 2014