

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 )
Academia Bautista de Puerto Nuevo ) File Nos. SLD-348673, et al.
San Juan, Puerto Rico, et al. )
Schools and Libraries Universal Service Support ) CC Docket No. 02-6
Mechanism )

ORDER

Adopted: December 29, 2010

Released: December 29, 2010

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

1. In this order, we grant 29 appeals of decisions by the Universal Service Administrative Company (USAC) that reduce or deny funding from the schools and libraries universal service support program (also known as the E-rate program) for various funding years because USAC found that the applicants failed to respond to USAC’s requests for additional information within the USAC-specified time frame. Consistent with the Commission’s Alpaugh Unified School District Order, and based on our review of the record, we find that complete rejection of these applications is not warranted, given that the applicants missed a USAC procedural deadline and did not violate a Commission rule. Therefore, we remand the underlying applications to USAC to allow the applicants another opportunity to respond to USAC’s requests for further information. 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 a denial based on a complete review and analysis no later than 90 calendar days from its receipt of the requested information.

1 See Appendix. In this order, we use the term “appeals” to generally refer to requests for review or waiver that are related to decisions issued by USAC. 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).

2 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); see also Requests for Review of the Decision of the Universal Service Administrator by Excellence Charter School of Bedford-Stuyvesant, et al., File Nos. SLD-528588, et al., CC Docket No. 02-6, Order, 23 FCC Rcd 15406 (Wireline Comp. Bur. 2008) (Excellence Charter School of Bedford-Stuyvesant Order) (granting 21 appeals of applicants denied funding because they failed to respond to USAC’s request for information within the USAC-specified time frame).

3 In performing a complete review and analysis of each underlying application, USAC shall either grant the underlying application before it or, if denying the application, provide the applicant with all grounds for denial. For those applications where the appropriate information was not submitted to USAC previously, we direct USAC to (continued....)

2. We also grant 14 petitioners waivers of our filing deadline for appeals<sup>4</sup> because we find that they submitted their appeals to the Commission within a reasonable period of time after receiving actual notice of USAC's adverse decisions,<sup>5</sup> or because of circumstances beyond the applicants' control.<sup>6</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 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 GRANTED and the applications ARE REMANDED to USAC for further consideration in accordance with the terms of this order.

4. 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 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), waivers of section 54.720(a) of the Commission's rules, 47 C.F.R. § 54.720, ARE GRANTED to Academia Bautista de Puerto Nuevo; Davis Joint Unified School District; Dine Southwest High School; Ethel Hedgemen Lyle Middle and High School; Garr Academy of Mathematics and Entrepreneurial Studies; Golden Plains Unified School District; Guam Public School System; Lawrence Public Schools; Live Oak School District; Perry County School District; Perspectives Charter School; San Jose Maricopa County Regional School District; School District of Marinette; and Sharon Christian Academy and their applications ARE REMANDED to USAC for further consideration in accordance with the terms of this order.

FEDERAL COMMUNICATIONS COMMISSION

Gina Spade  
Deputy Chief  
Telecommunications Access Policy Division  
Wireline Competition Bureau

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solicit submission of the information no later than 15 calendar days from the release of this order and to award funding, if warranted, no later than 90 calendar days from the receipt of the requested information.

<sup>4</sup> See 47 C.F.R. § 54.720.

<sup>5</sup> Request for Review by Davis Joint Unified School District; Request for Waiver by Ethel Hedgemen Lyle Middle and High School; Request for Review by Garr Academy of Mathematics and Entrepreneurial Studies; Request for Review by Golden Plains Unified School District; Request for Review of Lawrence Public Schools; Request for Waiver by Live Oak School District; Request for Waiver by Perry County School District; Request for Waiver by Perspectives Charter School; Request for Review by San Jose Maricopa County Regional School District; Request for Review by School District of Marinette; and Request for Waiver by Sharon Christian Academy.

<sup>6</sup> Request for Review by Academia Bautista de Puerto Nuevo; Request for Waiver by Dine Southwest High School; and Request for Waiver by Guam Public School System.

## APPENDIX

Applicant	Application Number	Funding Year	Date Appeal Filed
Academia Bautista de Puerto Nuevo San Juan, PR	348673	2003	1/21/2005
Caldwell Exempted Village School District, Caldwell, OH	694208	2009	11/2/2009
Clark Community School District Osceola, IA	759653	2010	7/30/2010
Cleveland Municipal School District, Cleveland, OH	635304	2008	8/24/2009
Couch School District R-1 Clayton, MO	760063	2010	11/22/2010
Burnt Ranch Elementary School District, Burnt Ranch, CA	658145	2009	2/22/2010
Davis Joint Unified School District Davis, CA	430159	2004	6/2/2005
Delta-Schoolcraft Intermediate School District, Escanaba, MI	688724, 689343	2009	2/18/2010
Dine Southwest High School Winslow, AZ	462506	2005	11/9/2006
Ed White Memorial High School League City, TX	623209	2008	12/9/2008
Ethel Hedgemen Lyle Middle and High School, St. Louis, MO	635876	2008	3/10/2009
Dollarway School District Pine Bluff, AR	636758	2008	7/23/2009
Perspectives Charter School Chicago, IL	636194	2008	5/1/2009
San Jose Maricopa County Regional School District Phoenix, AZ	605269	2008	4/9/2009
Sharon Christian Academy Philadelphia, PA	605083	2008	5/27/2009
GARR Academy of mathematics and Entrepreneurial Studies Los Angeles, CA	585848	2007	11/22/2008
Golden Plains Unified School District, San Joaquin, CA	579929	2007	2/13/2008
Guam Public School System Hagatna, Guam	584922, 586143, 586216, 586490, 586523	2007	8/4/2008
Lawrence Public Schools	581671	2007	1/21/2009

Lawrence, MA			
Live Oak Charter School Santa Cruz, CA	643946	2008	5/7/2009
Mercaz Gan Yisroel of Flatbush Brooklyn, NY	683962, 688408	2009	4/28/2010
New Millennium Academy Minneapolis, MN	574152	2007	4/11/2008
North Kitsap School District Poulsbo, WA	515690	2006	2/7/2007
Peoria School District 150 Peoria, IL	455386	2005	6/15/2006
Perry County School District New Augusta, MS	481770	2005	9/11/2006
Preble Shawnee Local School District, Camden, OH	762483	2010	8/27/2010
School District of Marinette Marinette, WI	574371	2007	1/29/2008
St. Columbanus School Chicago, IL	767857, 768385, 768688, 768747	2010	10/20/2010
Stone Corral Elementary School District, Visalia, CA	677066	2009	7/20/2010