**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. ) File Nos. SLD-853062 et al.

Houston, Texas et al. )

)

Schools and Libraries Universal Service ) CC Docket No. 02-6

Support Mechanism )

**order**

**Adopted: May 15, 2013 Released: May 15, 2013**

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

1. Consistent with precedent,[[1]](#footnote-2) 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]](#footnote-3) We grant requests concerning 80 applicants, grant in part and deny in part one request, and deny requests by 25 applicants.[[3]](#footnote-4)
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.[[4]](#footnote-5) We grant the two requests listed in Appendix A because we find that the applications were filed within the filing window.[[5]](#footnote-6) 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.[[6]](#footnote-7) 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.[[7]](#footnote-8) 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.[[8]](#footnote-9)
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, 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**

| **Petitioner** | **Application**  **Number** | **Funding**  **Year** | **Date Request for Review/Waiver Filed** |
| --- | --- | --- | --- |
| 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**

| **Petitioner** | **Application**  **Number(s)** | **Funding**  **Year** | **Date(s) Request for Review/Waiver Filed** |
| --- | --- | --- | --- |
| 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 |
| 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 |
| 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**

| **Petitioner** | **Application**  **Number(s)** | **Funding**  **Year** | **Date(s) Request for Review/Waiver Filed** |
| --- | --- | --- | --- |
| 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 |
| 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**

| **Petitioner** | **Application**  **Number** | **Funding**  **Year** | **Date Request for Review/Waiver Filed** |
| --- | --- | --- | --- |
| 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 |
| 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 |

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 theFCC 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). [↑](#footnote-ref-2)
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 somepetitioners 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. [↑](#footnote-ref-3)
3. *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. [↑](#footnote-ref-4)
4. *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. [↑](#footnote-ref-5)
5. *See* Appendix A. [↑](#footnote-ref-6)
6. *See* Appendix B. [↑](#footnote-ref-7)
7. *See* Appendix C. [↑](#footnote-ref-8)
8. *See* Appendix D. [↑](#footnote-ref-9)