**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 & KindergartenChicago, 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 SchoolMcSherrystown, PA | 933291 | 2013 | Apr. 8, 2013 |
| Bandera Independent School DistrictBandera, TX | 932270 | 2013 | Apr. 5, 2013 |
| Bland County School BoardBastian, VA | 931787 | 2013 | Mar. 26, 2013 |
| Brookfield AcademyCherry Hill, NJ | 931655, 931829 | 2013 | Mar. 21, 2013 |
| Canfield Local School DistrictCanfield, OH | 932856 | 2013 | Mar. 29, 2013 |
| Cedar Hill Independent School DistrictCedar Hill, TX | 932985 | 2013 | Apr. 11, 2013 |
| Collier County Public LibraryNaples, FL | 908919 | 2013 | Mar. 4, 2013 |
| Cornerstone Christian AcademyTillar, AR | 896989 | 2013 | Apr. 9, 2013 |
| Crescent View West CharterFresno, CA | 896933 | 2013 | Apr. 4, 2013 |
| David’s Star Evangelical Lutheran SchoolJackson, 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 LibraryRimersburg, PA | 931907 | 2013 | Apr. 2, 2013 |
| Elizabeth Seton AcademyDorchester, MA | 932992 | 2013 | Apr. 9, 2013 |
| Erskine AcademySouth China, ME | 932311 | 2013 | Mar. 22, 2013 |
| Grace Christian SchoolStaunton, VA | 931714 | 2013 | Apr. 2, 2013 |
| Gunnison-Watershed District RE 1 JGunnison, CO | 904351 | 2013 | Mar. 21, 2013 |
| Houston School DistrictHouston, MS | 921116 | 2013 | Apr. 5, 2013 |
| Humble Independent School DistrictHumble, TX | 932572 | 2013 | Apr. 11, 2013 |
| Jeff Davis County School DistrictHazelhurst, GA | 930774 | 2013 | Mar. 15, 2013 |
| JS Clark Leadership AcademyOpelousas, LA | 924633 | 2013 | Apr. 10, 2013 |
| King George County School DistrictKing George, VA | 932052 | 2013 | Mar. 21, 2013 |
| Lapwai School District 341Lapwai, ID | 932873 | 2013 | Apr. 9, 2013 |
| Lexington Independent School DistrictLexington, TX | 932200 | 2013 | Apr. 11, 2013 |
| Mannheim School District 83Franklin Park, IL | 921591 | 2013 | Mar. 18, 2013 |
| Maple Creek Elementary School DistrictKorbel, CA | 923408 | 2013 | Apr. 23, 2013 |
| Miller Memorial LibraryHamden, CT | 931687 | 2013 | Mar. 15, 2013 |
| Modoc County LibraryAlturas, CA | 924989 | 2013 | Mar. 20, 2013 |
| Moravian AcademyBethlehem, PA | 932874 f/k/a 912870 | 2013 | Mar. 14, 2013 revised on Mar. 20, 2013 |
| Neosho School District R 5Neosho, MO | 932964 | 2013 | Apr. 11, 2013 |
| North Branch Township LibraryNorth Branch, MI | 933628, 933747, 933749 | 2013 | Apr. 12, 2013 |
| Nosotros AcademyTucson, AZ | 931755 | 2013 | Apr. 9, 2013 |
| Oberlin Public LibraryOberlin, OH | 932988 | 2013 | Apr. 3, 2013 |
| Oberlin Unified School District 294Oberlin, KS | 932987 | 2013 | Apr. 4, 2013 |
| Options Head StartSouth 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 SchoolsPaxton, NE | 931871 | 2013 | Mar. 25, 2013 |
| Put in Bay Local School DistrictPut in Bay, OH | 931807 | 2013 | Feb. 20, 2013 supplemented Mar. 19, 2013 |
| Putnam County Public LibraryCookeville, TN | 928754 | 2013 | Mar. 28, 2013 |
| Regional School District 10Burlington, CT | 932107 | 2013 | Mar. 28, 2013 |
| Rutland Southwest Supervisory UnionPoultney, VT | 931831 | 2013 | Mar. 22, 2013 |
| St. Anne Catholic SchoolWichita, KS | 932091 | 2013 | Mar. 15, 2013 |
| St. Bernard’s Central Catholic HSFitchburg, MA | 931713 | 2013 | Mar. 27, 2013 |
| St. Joseph AcademyCleveland, OH | 932656 | 2013 | Mar. 28, 2013 |
| St. Mary Central SchoolMartins Ferry, OH | 932408 | 2013 | Apr. 1, 2013 |
| St. Patrick Elementary SchoolMcCook, NE | 932038, 932189 | 2013 | Mar. 21, 2013 |
| Salem School DistrictSalem, CT | 931887 | 2013 | Apr. 8, 2013 |
| Sandown Public LibrarySandown, NH | 932775 | 2013 | Apr. 2, 2013 |
| Santiam Canyon School District 129 JMill City, OR | 919125 | 2013 | Apr. 3, 2013 |
| Satsop Elementary SchoolSatsop, WA | 931992 | 2013 | Apr. 1, 2013 |
| Stonington Township LibraryStonington, IL | 906067 | 2013 | Mar. 28, 2013 |
| Sturgeon School District R 5Sturgeon, MO | 932518 | 2013 | Apr. 11, 2013 |
| Sullivan County School DistrictLaporte, 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 DistrictMaple Glen, PA | 922162 | 2013 | Mar. 19, 2013 |
| Upper Moreland Free Public LibraryWillow Grove, PA | 924837 | 2013 | Mar. 15, 2013 |
| Wayne Library AuthorityHonesdale, 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 InstitutesBrooklyn, NY | 787395 | 2011 | Mar. 12, 2013 |
| Carmi Public LibraryCarmi, IL | 933650 | 2013 | Apr. 23, 2013 |
| Carter County School DistrictGrayson, KY | 838595 | 2012 | Feb.21, 2013 |
| Chama Valley Independent School DistrictTierra Amarill, NM | 869373 | 2012 | Feb. 20, 2013 |
| Coleman Tech Charter High SchoolSan Diego, CA | 931945 | 2013 | Mar. 25, 2013 |
| Diocese of Arlington E-rate ConsortiumArlington, VA | 868846 | 2012 | Mar. 29, 2013 |
| Glenbrook SchoolMinden, LA | 867803 | 2012 | Feb. 19, 2013 |
| Grace Classical AcademyLaguna Nigel, CA | 931614 | 2013 | Mar. 18, 2013 |
| Hinton Independent School District 161Hinton, OK | 865773 | 2012 | Apr. 1, 2013 |
| Jo Daviess Carroll Area Vocational CenterElizabeth, IL | 933287 | 2013 | Apr. 4, 2013 |
| Juan Diego AcademyMission, TX | 933052 | 2013 | Apr. 3, 2013 |
| Ludlow Grade SchoolLudlow, IL | 934447 | 2013 | Mar. 21, 2013 |
| North Hudson Community Action Head StartWest New York, NJ | 933468 | 2013 | Mar. 13, 2013 |
| Northern Penobscot Tech Region IIILincoln, ME | 933015 | 2013 | Mar. 4, 2013 |
| Palmyra Public LibraryPalmrya, PA | 933428 | 2013 | Apr. 5, 2013 |
| Pike-Delta-York School DistrictDelta, OH | 841910 | 2012 | Mar. 15, 2013 |
| St. Joseph Regional High SchoolMontvale, NJ | 910400, 933269 | 2013 | Mar. 11, 2013 &Apr. 8, 2013 |
| St. Louis the King School at the CathedralSt. Louis, MO | 932631 | 2013 | Mar. 28, 2013 |
| St. Rose SchoolClintonville, WI | 932977 | 2013 | Mar. 29, 2013 |
| UFT Charter SchoolBrooklyn, NY | 862598 | 2012 | Jan. 28, 2013 |
| University Preparatory SchoolDenver, CO | 933328 | 2013 | Mar. 7, 2013 |
| Waupaca School DistrictWaupaca, WI | 933290 | 2013 | Apr. 5, 2013 |

**APPENDIX D**

**Requests Denied**

| **Petitioner** | **Application****Number** | **Funding****Year** | **Date Request for Review/Waiver Filed**  |
| --- | --- | --- | --- |
| Alexander Findley Community LibraryFindley Lake, NY | 933611 | 2013 | Apr. 15, 2013 |
| Berne Public LibraryBerne, IN | 933547 | 2013 | Apr. 8, 2013 |
| Bucklin R-2 SchoolBucklin, MO | 933571 | 2013 | Apr. 16, 2013 |
| Cainsville R-1 School DistrictCainsville, MO | 933508 | 2013 | Apr. 17, 2013 |
| Charlotte Independent School DistrictCharlotte, TX | 933489 | 2013 | Apr. 8, 2013 |
| Duval County School DistrictJacksonville, FL | 933467 | 2013 | Apr. 15, 2013 |
| Ector County LibraryOdessa, TX | 933788 | 2013 | Apr. 15, 2013 |
| Fresno Academy for Civic and Entrepreneurial LeadershipFresno, CA | 929101 | 2013 | Mar. 26, 2013 |
| Golconda Public LibraryGolconda, IL | 933867 | 2013 | Apr. 17, 2013 |
| Intown Charter AcademyAtlanta, GA | 924121 | 2013 | Apr. 16, 2013 |
| Martinsville Community LibraryMartinsville, IL | did not file | 2013 | Apr. 22, 2013 |
| Milanof-Schock LibraryMt. Joy, PA | 933847 | 2013 | Apr. 19, 2013 |
| North Lakes AcademyForest Lake, MN | 933387 | 2013 | Apr. 9, 2013 |
| Nosotros AcademyTucson, AZ | 933490 | 2013 | Apr. 9, 2013 |
| Our Saviors Lutheran SchoolAlbany, NY | 933507 | 2013 | Apr. 12, 2013 |
| Piscataway Public LibraryPiscataway, NJ | 932643 | 2013 | Apr. 1, 2013 |
| St. Charles Borromeo SchoolSaint Charles, MO | 933707 | 2013 | Apr. 11, 2013 |
| San Domenico Upper School GirlsSan Anselmo, CA | 933947 | 2013 | Apr. 19, 2013 |
| Sayre Public LibrarySayre, PA | 921511 | 2013 | Apr. 10, 2013 |
| School Administrative District 8Vinalhaven, ME | 933227 | 2013 | Apr. 11, 2013 |
| Speech and Language Development CenterBuena Park, CA | did not file | 2013 | Mar. 12, 2013 |
| Spring Union Free School DistrictEast Hampton, NY | 933811 | 2013 | Apr. 23, 2013 |
| Steel Valley School DistrictMunhall, PA | 932790 | 2013 | Apr. 2, 2013 |
| Walla Walla County Rural Library DistrictWalla Walla, WA | 933568 | 2013 | Apr. 11, 2013 |
| Westview SchoolLos Angeles, CA | 933367 | 2013 | Mar. 28, 2013 |
| York City School DistrictYork, 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)