

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Request for Review of the Decision of the)	
Universal Service Administrator by)	
)	
School Board of Alachua County)	File No. SLD-266209
Gainesville, Florida)	
)	
Schools and Libraries Universal Service Support)	CC Docket No. 02-6
Mechanism)	

ORDER

Adopted: January 22, 2004

Released: January 23, 2004

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. School Board of Alachua County, Gainesville, Florida (Alachua), seeks review of an October 2, 2002 decision by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator).¹ On May 19, 2003, Alachua appealed the decision to SLD, but SLD denied the appeal because Alachua filed the appeal more than 60 days after the decision was rendered.² We affirm SLD's decision. For a review of decisions by SLD, appeals to SLD must be filed within 60 days of the issuance of the SLD decision date.³ Here, Alachua filed its appeal to SLD after the 60-day period, in contravention of our rules. We therefore deny the Request for Review.

2. To the extent that Alachua additionally asks us to waive our rules in this instance, we also deny its request.⁴ Alachua states that the staff member filing its E-Rate documents mistakenly understood that the Form 486 Notification Letter was not something that could be appealed and further states that Alachua was without a staff attorney and therefore did not have

¹ Letter from Jim Utley, School Board of Alachua County, to Federal Communications Commission, filed June 24, 2003 (Request for Review). *See also* Form 486 Notification Letter from Schools and Libraries Division, Universal Service Administrative Company, to John Warne, School Board of Alachua County, dated October 2, 2002 (Form 486 Notification Letter). Any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. 47 C.F.R. § 54.719(c).

² *See* Letter from Jim Utley, School Board of Alachua County, to Schools and Libraries Division, Universal Service Administrative Company, filed May 19, 2003; Letter from Schools and Libraries Division, Universal Service Administrative Company, to Jim Utley, School Board of Alachua County, dated May 22, 2003.

³ 47 C.F.R. § 54.720(b). *See In the Matter of Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Second Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 9202, 9221 (rel. Apr. 30, 2003).

⁴ 47 C.F.R. § 54.720(b).

the benefit of legal advice.⁵ Waiver is appropriate only if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the rule.⁶ Given the thousands of applications SLD processes each year, it is administratively necessary to place the burden of meeting deadlines on the applicants.⁷ As we have consistently held in the past, applicants are responsible for submitting their appeals in a timely manner and complying with program rules and procedures.⁸ In this instance, Alachua failed to comply with the deadline. This failure based on Alachua misunderstanding of the program rules does not constitute special circumstance to justify a waiver of our rules.

3. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under 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 filed on June 24, 2003, by School Board of Alachua County, Gainesville, Florida, and the request to waive the 60-day time limit in which to file an appeal ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Narda M. Jones
Deputy Chief, Telecommunications Access Policy Division
Wireline Competition Bureau

⁵ Request for Review.

⁶ 47 C.F.R. § 1.3; *see Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

⁷ *See Request for Review by Anderson School Staatsburg, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-133664, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 25610, 25612-25613 (Com. Car. Bur. 2000).

⁸ *Request for Review by St. Mary's Public Library, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. NEC.471.12-07-99.02000002, CC Docket Nos. 96-45 and 97-21, Order, 16 FCC Rcd 12936, 12938 (Com. Car. Bur. 2001) (denying a waiver request to the extent it is requested due to misunderstanding of the program's rules).