

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

In the Matter of	)	
	)	
Request for Review of the Decision of the Universal Service Administrator by	)	
	)	
Education Legislative Services, Inc. El Cajon, California	)	
	)	
Oakland Unified School District Oakland, California	)	File No. SLD-363385
	)	
Schools and Libraries Universal Service Support Mechanism	)	CC Docket No. 02-6
	)	

**ORDER**

**Adopted: February 10, 2004**

**Released: February 11, 2004**

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. Education Legislative Services, Inc., El Cajon, California (ELS) and Oakland Unified School District, Oakland, California (Oakland USD) (collectively, the Petitioners), seek review of a March 20, 2003 decision by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator).<sup>1</sup> The Petitioners appealed the decision to SLD, but SLD denied the appeals because the appeals were filed more than 60 days after the decision was rendered.<sup>2</sup> 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.<sup>3</sup> Here, the Petitioners filed their appeals with SLD after the 60-day period, in contravention of our rules. We therefore deny the Requests for Review.

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<sup>1</sup> Letter from Sally Shake, Education Legislative Services, Inc., to Federal Communications Commission, filed July 31, 2003 and Letter from Peter Hatcher, Oakland Unified School District, to Federal Communications Commission, filed July 31, 2003 (Requests for Review). *See also* Certification Postmarked Outside of Window Notification Letter from Schools and Libraries Division, Universal Service Administrative Company, to Peter Hatcher, Oakland Unified School District, dated March 20, 2003 (OOW Postcard). 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).

<sup>2</sup> *See* Letter from Peter Hatcher, Oakland Unified School District, to Schools and Libraries Division, Universal Service Administrative Company, filed May 23, 2003; Letter from Schools and Libraries Division, Universal Service Administrative Company, to Peter Hatcher, Oakland Unified School District, dated June 2, 2003.

<sup>3</sup> 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).

2. To the extent that the Petitioners additionally ask us to waive our rules in this instance, we also deny those requests.<sup>4</sup> The Petitioners assert that Oakland USD did not receive notification by SLD that the application was filed Certification Postmarked Outside of Window (OOW), and therefore the Petitioners did not feel an urgency to submit an appeal for Form 471 application number 363385.<sup>5</sup> 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.<sup>6</sup> Given the thousands of applications SLD processes each year, it is administratively necessary to place the burden of meeting deadlines on the applicants.<sup>7</sup> 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.<sup>8</sup> Merely stating that a letter or notice was not received at the address provided to SLD and to which prior correspondence had been successfully mailed is insufficient grounds for reconsideration.<sup>9</sup>

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 July 31, 2003, by Education Legislative Service, Inc., El Cajon, California and Oakland Unified School District, Oakland, California, 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

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<sup>4</sup> See Request for Review. 47 C.F.R. § 54.720(b).

<sup>5</sup> *Id.*

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

<sup>7</sup> 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).

<sup>8</sup> *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).

<sup>9</sup> See *Request for Review by Whitehall City School District*, Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 15157 (Com. Car. Bur. 2000); *Juan Galiano*, Memorandum Opinion and Order, 5 FCC Rcd 6442, 6443 (1990) (“[I]f the Commission were to entertain and accept unsupported arguments that letters mailed in Commission proceedings were not delivered... procedural havoc and abuse would result.”).