

libraries support mechanism shall be debarred from activities associated with or related to the schools and libraries support mechanism for a specified period, absent extraordinary circumstances. The debarment rules we adopt are informed by the nonprocurement debarment regulations for federal agencies, which do not apply to independent agencies such as the Commission. Specifically, we find that persons convicted of, or held civilly liable for, the attempt or commission of criminal fraud, theft, embezzlement, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, obstruction of justice, or other fraud or criminal offense arising out of activities associated with or related to the schools and libraries universal service support mechanism shall be debarred from involvement with the schools and libraries support mechanism for a period of three years. Where circumstances warrant, a longer period of debarment may be imposed if the extension is necessary to protect the public interest. In the case of multiple convictions or judgments, the Commission shall determine based on the facts before it whether debarments shall run concurrently or consecutively.

46. A person subject to debarment, or a person that has contracted or intends to contract with a person subject to debarment to provide or receive services in connection with the schools and libraries support mechanism, may file arguments in writing and supported by documentation in opposition to the proposed debarment action or supporting a reduction in the period or scope of debarment. The Commission shall consider any such request, and may, upon the filing of arguments against the proposed suspension or debarment by an interested party or on its own motion, grant such a request for extraordinary circumstances. For example, reversal of the conviction or civil judgment upon which the debarment was based shall constitute extraordinary circumstances.

47. In light of the serious nature of a conviction or civil judgment relating to participation in the support mechanism, upon becoming aware of a person's criminal conviction or civil judgment under the specified circumstances, the Commission shall suspend the person from activities associated with or related to the schools and libraries support mechanism. Suspension is an immediate but temporary measure pending a final determination of debarment. Suspension will help to ensure that a person that has been

convicted or held civilly liable for behavior with respect to the schools and libraries support mechanism cannot continue to benefit from the mechanism pending resolution of the debarment process. The Commission shall send notice to the person's last known address by certified mail, return receipt requested, and shall publish notice in the **Federal Register**. Suspension is effective immediately upon the earlier of the person's receipt of such notice or publication in the **Federal Register**.

48. The notice of suspension shall include notice of debarment proceedings. Such notice shall (1) give the reasons for the proposed debarment in terms sufficient to put the person on notice of the conduct or transaction(s) upon which it is based and the cause relied upon, namely, the entry of a criminal conviction or civil judgment; (2) explain the applicable debarment procedures; (3) describe the potential effect of debarment. A person subject to debarment or a person that has contracted or intends to contract with a person subject to debarment to provide or receive services in connection with the schools and libraries support mechanism, that elects to file arguments in opposition to the suspension and proposed debarment, must do so with any relevant documentation within 30 days after receiving notice or publication in the **Federal Register**, whichever is earlier. Any suspended person or person who has contracted or intends to contract with a suspended person also may request, in writing and supported by documentation, reversal of the suspension action or a reduction in the period or scope of suspension. The Commission shall consider such a request, but such action will not ordinarily be granted. Within 90 days of receipt of any such request, the Commission, in the absence of extraordinary circumstances, shall provide the person prompt notice of the decision to debar, and shall publish the decision in the **Federal Register**. Debarment shall be effective upon the earlier of receipt of notification or publication in the **Federal Register**.

49. Consistent with the federal agency regulations, we define "person" as "[a]ny individual, corporation, partnership, association, unit of government or legal entity, however organized." Under this definition, persons may include applicants, service providers, consultants, or others engaged in activities associated with or related to the support mechanism.

50. Consistent with the federal agency regulations, suspension or debarment of a corporation, partnership, association, unit of government or legal entity,

however organized, defined as a "person" under these regulations, constitutes suspension or debarment of all its divisions and other organizational elements from all activities associated with or related to the schools and libraries support mechanism for the debarment period, unless the suspension or debarment decision is limited by its terms to one or more specifically identified individuals, divisions, or other organizational elements or to specific types of transactions.

51. Consistent with the federal agency regulations, we define "conviction" as "a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, including a plea of nolo contendere" and "civil liability" or "civilly liable" as "the disposition of a civil action by any court of competent jurisdiction, whether entered by verdict, decision, settlement with admission of liability, stipulation, or otherwise creating a civil liability for the wrongful acts complained of, or a final determination of liability under the Program Fraud Civil Remedies Act of 1988 (31 U.S.C. 3801-12)." We further conclude that, for purposes of these rules, "activities associated with or related to the schools and libraries support mechanism" include the receipt of funds or discounted services through the schools and libraries support mechanism, or consulting with, assisting, or advising applicants or service providers regarding the schools and libraries support mechanism.

52. A conviction or civil judgment in the specified circumstances therefore automatically results in suspension and the initiation of debarment proceedings, providing a clear and stringent response on the part of the Commission and serving to deter waste, fraud, and abuse in the program. Although the governmentwide rules provide that agencies "may" debar or suspend persons convicted or held civilly liable, we conclude that a rule requiring the Commission to suspend and debar such persons absent extraordinary circumstances will better serve the Commission's goal of limiting waste, fraud, and abuse. In light of our statutory obligation to preserve and advance universal service, we believe it appropriate to set a very high threshold for parties seeking to persuade us that debarment is not warranted in circumstances where a court of competent jurisdiction has concluded that person has committed some form of fraud related to the schools and libraries program. We conclude that under our rules the Commission shall debar