

Before the Federal Communications Commission
Washington DC 20554

In the Matter of)
)
Universal Service Contribution Methodology) WC Docket No. 21-31

Comments of the Education & Libraries Networks Coalition (EdLiNC)

I. INTRODUCTION

The Education and Library Networks Coalition (EdLiNC)¹, a group comprised of the leading public and private education associations and the American Library Association that was formed in 1995 to advocate for the interests of schools and libraries in the Telecommunications Act of 1996, is pleased to provide these comments to the Wireline Competition Bureau’s Public Notice (Notice) on petitions for emergency relief to allow the use of E-Rate funds to support remote learning during the COVID-19 pandemic². Since the enactment of the E-Rate as part of the Telecommunications Act of 1996, EdLiNC has pursued a mission of promoting and improving the E-Rate to fulfill its mission of accelerating the deployment of advanced telecommunications and information services in schools and libraries, and has filed in every Commission rulemaking related to the program. EdLiNC also filed comments in the Commission’s 2016 Lifeline Modernization proceeding, focusing our proposals on elements of this rulemaking related to bridging the homework gap.

As is reflected in our comments below, EdLiNC believes: 1) The COVID-19 pandemic necessitates that the Bureau take immediate steps to assist the millions of K-12 students, educators and library patrons who lack home access to the Internet -- termed the “Homework

¹ See Appendix A for a complete list of EdLiNC members.

² *Public Notice*, WC Docket No. 21-31 (2021) (Notice).

Gap -- gain access to remote learning; 2) The existing E-Rate program provides the structure and some of the funding necessary for schools, school districts and public libraries to help bridge the homework gap by purchasing for students, educators and library patrons: advanced telecommunications and information services, including off-campus connectivity; Wi-Fi hotspots; modems; routers, devices that combine modems and routers; and connected devices including laptop computers and tablet computers (hereinafter "Homework Gap technologies and services"); 3) The Bureau has the authority and should use it to designate Homework Gap technologies and services as eligible services under the E-Rate program and should immediately add them to the E-Rate Eligible Services List; 4) The Bureau has the authority and should use it to quickly open an emergency application filing window to allow E-Rate eligible applicants to apply for support for Homework Gap technologies and services; 5) The Bureau has the authority and should use it to establish emergency rules and waive existing program rules to facilitate the dissemination of funding for Homework Gap technologies and services; and 6) The Bureau has the authority and should use it to repurpose unused E-Rate funds held in reserve and uncollected and unapplied for E-Rate funds from E-Rate Program Year 2020 for the purchase of Homework Gap technologies and services. Finally, in the interest of expediency, we recommend that the Bureau not issue an additional Public Notice to implement these proposed changes to the E-Rate program to support Homework Gap needs; instead, we believe that you can and should rely upon the record created by this Notice to move forward.

II. EDLINC BELIEVES THAT THE COVID-19 PANDEMIC NECESSITATES THAT THE BUREAU TAKE IMMEDIATE STEPS TO ASSIST THE MILLIONS OF K-12 STUDENTS, EDUCATORS AND LIBRARY PATRONS WHO LACK HOME ACCESS TO THE INTERNET -- TERMED THE "HOMEWORK GAP" -- GAIN ACCESS TO REMOTE LEARNING.

Even before the COVID-19 pandemic, the homework gap was experienced by nearly 17 million K-12 students who couldn't finish their schoolwork from home because they lacked internet access or an appropriate computing device.³ COVID-19 has created a new reality;

³ See Common Sense Media, "The Homework Gap: Teacher Perspectives on Closing the Digital Divide," available at https://www.common sense media.org/sites/default/files/uploads/kids_action/homework-gap-report-2019.pdf

schools have physically closed their doors and moved classes online, leaving students without the Internet behind. The inequity among students experiencing the homework gap is stark. According to Pew Research⁴:

- o 37% of rural Americans do not have broadband internet access at home,
- o 35% of students from households with annual incomes below \$30,000 do not have access to high-speed internet at home,
- o 25% of African-American households, and
- o 23% of Hispanic households with school-age children do not have access to high-speed internet at home.

Since the pandemic began, some progress has been made on bridging the homework gap but much work remains to be done. According to the most recent report by Common Sense Media⁵, “up to 12 million K–12 students remain under-connected going into 2021 due to limitations of poor broadband mapping data, current infrastructure and supply chains, insufficient marketing and adoption support, and inadequate funding.” This report estimates that permanently closing this gap will require between \$6 billion and \$11 billion in the first year and between \$4 billion and \$8 billion annually thereafter, to address affordability and adoption gaps. In addition, closing the digital divide for teachers will cost approximately \$1 billion in its first year.”

Future Ready Schools, “Students of Color Caught in the Homework Gap” (July 2020), *available at* <https://futureready.org/homework-gap/>; and National Education Association, “Digital Equity for Students and Educators,” (September 2020) at <https://www.nea.org/resource-library/digital-divide-and-homework-gap-your-state>

⁴ Pew Research, “Nearly one-in-five teens can’t always finish their homework because of the digital divide,” (October 2018) at <https://www.pewresearch.org/fact-tank/2018/10/26/nearly-one-in-five-teens-cant-always-finish-their-homework-because-of-the-digital-divide/>

⁵ Common Sense Media, “Looking Back, Looking Forward: What It Will Take to Permanently Close the K–12 Digital Divide,” (January 2021) at https://www.commonsensemedia.org/sites/default/files/uploads/pdfs/final_-_what_it_will_take_to_permanently_close_the_k-12_digital_divide_vfeb3.pdf

And it appears highly likely that the demand for remote learning and the need to close the homework gap will persist even after the current school year ends. A December 2020 Rand Corporation report found: “About two in ten districts have already adopted, plan to adopt, or are considering adopting virtual school as part of their district portfolio after the end of the COVID-19 pandemic. District leaders cited reasons related to student and parent demand for continuing various forms of online instruction in future years.”⁶ Libraries also report that they are currently examining whether to permanently incorporate virtual programming for patrons that they implemented as a result of the pandemic.

For all of these reasons, EdLiNC believes that it is imperative that the Bureau move quickly to help resolve the homework gap before students without home Internet access lose more learning time and prepare for a future where remote learning remains an important and necessary educational option.

III. EDLINC BELIEVES THAT THE E-RATE PROGRAM PROVIDES THE STRUCTURE AND SOME OF THE FUNDING NECESSARY FOR SCHOOLS, SCHOOL DISTRICTS AND PUBLIC LIBRARIES TO HELP BRIDGE THE HOMEWORK GAP BY PURCHASING FOR STUDENTS, EDUCATORS, AND LIBRARY PATRONS: ADVANCED TELECOMMUNICATIONS AND INFORMATION SERVICES, INCLUDING OFF-CAMPUS CONNECTIVITY; WI-FI HOTSPOTS; MODEMS; ROUTERS; DEVICES THAT COMBINE MODEMS AND ROUTERS; AND CONNECTED DEVICES INCLUDING LAPTOP COMPUTERS AND TABLET COMPUTERS (HEREINAFTER “HOMEWORK GAP TECHNOLOGIES AND SERVICES”).

As the facts above make clear, the Homework Gap still afflicts many across this country and there are at least two basic steps that need to be taken to remedy this situation: 1) provide students, teachers and library patrons without a connection in their homes the appropriate

⁶ Rand Corporation, “Remote Learning is Here to Stay: Results from the First American School District Panel Survey,” (December 2020) at https://www.rand.org/pubs/research_reports/RR956-1.html

technology, including a computer if necessary, to allow them to connect to the Internet to engage in online teaching and learning; and 2) provide them with support for the cost of Internet service that is fast enough for them to connect by video to online learning. To that end, EdLiNC has supported the Emergency Educational Connections Act legislation, introduced last year by Senator Ed Markey (D-MA) and Rep. Grace Meng (D-NY), which would establish an emergency fund to assist with bridging the homework gap and authorize the appropriation of significant funds through the E-Rate program for schools and libraries to purchase the aforementioned Homework Gap technologies and services. We believe the provision of such technologies and services to be critical for helping millions of students, their teachers and library patrons engage in online learning and urge the Bureau to use its authority immediately to start the program envisioned by those bills, using the E-Rate program to deliver Homework Gap technologies and services and devoting unused and uncollected E-Rate funds to pay for them.

EdLiNC's members are unified in our belief that the 22-year old E-Rate program represents the best option to fairly, equitably and swiftly disseminate funding to public and private schools and public libraries to alleviate the continuing problem of the Homework Gap. As the coalition representing E-Rate program beneficiaries and supporting organizations, we remain deeply committed to preserving the E-Rate program and are very deliberate in consideration of proposals that would permanently change the program, changes that could undermine E-Rate's core mission of ensuring connectivity in schools and libraries. We have historically opposed any encroachment on E-Rate out of concern it would waste limited E-Rate funding sources and/or cause confusion among applicants. The COVID-19 and the related shuttering of schools and libraries and wide-spread pivot to online/remote learning have caused us to re-evaluate our stances and to support temporary changes to the program to help these deserving students, teachers, and library patrons who lack home internet access

Based on our long experience with the program, we know that it is best suited to be used during this crisis because: schools and libraries know and trust the E-Rate and understand how to navigate its application process; the program's structure was build on and continues to operate under equity principles that assure that those most in need gain access to funding; the

Universal Service Administrative Company (USAC), the program’s administrator, has sufficient resources to move funding to applicants expeditiously; and USAC and the Commission have long established program integrity rules to secure the program against waste, fraud and abuse. Additionally, we must note that the Bureau can easily modify the E-Rate’s existing regulatory structure in order to allow the rapid distribution of Homework Gap support. Beyond E-Rate’s obvious suitability as a Homework Gap support delivery mechanism lies the fact that the Bureau has at its disposal significant sums of unused and/or unapplied for E-Rate support that we believe could be and should be redirected towards resolving the Homework Gap. The availability of this funding is, from our perspective, another very compelling reason to make use of the E-Rate for Homework Gap support. Therefore, we urge the Bureau to move quickly to temporarily retro-fit the E-Rate to deliver Homework Gap technologies and services to America’s schools and libraries.

IV. EDLINC BELIEVES THAT THE BUREAU HAS THE AUTHORITY TO DESIGNATE HOMEWORK GAP TECHNOLOGIES AND SERVICES AS ELIGIBLE SERVICES UNDER THE E-RATE PROGRAM BASED AND SHOULD IMMEDIATELY ADD THEM TO THE E-RATE ELIGIBLE SERVICES LIST.

The Notice puts forth an excellent explanation of the statutory basis of the Commission’s authority for the E-Rate program and the regulations governing the definition of the program’s eligible services:

“Under the E-Rate program, eligible schools, libraries, and consortia (comprised of eligible schools and libraries) may request universal service discounts for eligible services and/or equipment (collectively, eligible services), including connections necessary to support broadband connectivity to eligible schools and libraries.⁷ Eligible services must be used “primarily for educational purposes.” In the case of schools, “educational purposes” is defined as “activities that are integral, immediate, and proximate to the education of students.”⁸ In the case of libraries, “educational

⁷ 47 CFR §§ 54.501, 54.502.

⁸ *Schools and Libraries Universal Service Support Mechanism*, WC Docket No. 02-6, Sixth Report and Order, 25 FCC Rcd 18762, 18774, para. 22 (2010) (*Schools and Libraries Sixth Report and Order*) (amending the rules to require that services be used *primarily* for educational purposes and explaining that “[t]o primarily use services supported by E-rate, E-rate recipients must ensure that students always get first priority in use of the schools’ resources”).

purposes” is defined as activities that are “integral, immediate, and proximate to the provision of library services to library patrons.”⁹

According to Burbio, more than 60% (35.2% virtual only, 25.1% hybrid, and 39.7% in-person) of K-12 students participate in school from home each day or several days each week.¹⁰ As a result, EdLiNC submits that the Homework Gap technologies and services necessary to connect students and teachers at home are not only integral, immediate and proximate to the education of students without home Internet access but are prerequisites for many of them receiving any education at all. Similarly, the majority of libraries have moved their programs and services online, connecting with patrons, including students and teachers, virtually. The provision of such services now requires that library patrons have home Internet connections. Thus, we contend that the Bureau can and should designate Homework Gap technologies as E-Rate eligible services and should add them to the program’s Eligible Services List for the duration of this COVID-19 pandemic.

Further, we note that the Commission previously allowed temporary E-Rate eligibility for one of the most important of these critical services, off-campus Internet access, through its 2011-12 Learning-on-the-Go wireless pilot program. In its July 11, 2011 Order launching the program, the Bureau wrote: “As the Commission noted in the *Schools and Libraries Sixth Report and Order*, we believe these projects serve an educational purpose by enabling innovation in learning outside the boundaries of school buildings and the traditional school day, as well as enabling the library system to innovate with new models of delivering service to library patrons.”¹¹ In our view, the COVID-19 crisis makes it even more imperative now that the Commission recognize off-campus eligibility as serving an educational purpose in the same way it did so a decade ago in far less troubled times.

⁹ *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, 9208, para. 17 (2003) (*Schools and Libraries Second Report and Order*) (clarifying the meaning of educational purposes); 47 CFR § 54.500 (defining “educational purposes”).

¹⁰ Burbio School Opening Tracker, at <https://info.burbio.com/school-tracker-update-feb-8/>

¹¹ E-rate Deployed Ubiquitously 2011 Pilot Program Order, WC Docket No. 10-222, para. 6 (2011)

V. EDLINC BELIEVES THAT THE BUREAU HAS THE AUTHORITY AND SHOULD USE IT TO QUICKLY OPEN AN EMERGENCY APPLICATION FILING WINDOW TO ALLOW E-RATE ELIGIBLE APPLICANTS TO APPLY FOR SUPPORT TO PURCHASE HOMEWORK GAP TECHNOLOGIES AND SERVICES.

We believe the Bureau can and must move fast to disseminate Homework Gap funds through E-Rate as the COVID-19 pandemic crisis continues to disrupt in-person school and much of daily life. To that end, we urge the Bureau to open an emergency application window as quickly as possible so that E-Rate eligible applicants can apply to receive support for Homework Gap technologies and services. We also recommend that the Bureau allow this application window to remain open to receive applications on a rolling basis until the end of the COVID-19 public health emergency or the exhaustion of available funding, whichever occurs last.

There is ample precedent for the Bureau to open emergency filing windows. As recently as this past Fall, the Bureau issued an Order that stated, part: “ Recognizing the many challenges facing schools as they shift to full or partial remote learning during this school year, we direct USAC to open a second funding year 2020 application window to allow schools to request additional E-Rate discounts for the limited purpose of purchasing additional bandwidth to meet the unanticipated and increased demand for on-campus connectivity...”¹² The Bureau’s action was founded on at least two other Orders issued by the Commission to deliver relief in extraordinary natural disaster situations. In response to a series of three hurricanes that devastated parts of Texas, Georgia and Florida and all of Puerto Rico and the US Virgin Islands in 2017, the Commission ordered USAC to open a second FY17 application window so that directly impacted applicants could request additional E-Rate discounts for the replacement of products and services.¹³ After Hurricane Katrina ravaged Alabama, Louisiana and Mississippi, the Commission reopened the Funding Year 2005 filing window for E-Rate, increased the eligible discount rate of all affected eligible applicants to 90%, and waived a number of other

¹² *Schools and Libraries Universal Support Mechanism*, CC Docket No. 02-6 (2020)

¹³ *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 32 FCC Rcd 9538, 9546, para. 11.

E-Rate rules.¹⁴ Given these precedents as well as the nationwide scope of the COVID-19 pandemic and the widespread closure of schools and libraries throughout the country, EdLiNC asserts that there is ample legal support for and even greater reason than ever before to open an emergency window to provide Homework Gap relief.

VI. EDLINC BELIEVES THAT THE BUREAU HAS THE AUTHORITY AND SHOULD USE IT ESTABLISH EMERGENCY RULES AND WAIVE EXISTING E-RATE PROGRAM RULES TO FACILITATE THE DISSEMINATION OF FUNDING FOR HOMEWORK GAP TECHNOLOGIES AND SERVICES.

Having established the need for the Bureau, the Commission and USAC to move fast to disseminate Homework Gap technologies and services, EdLiNC urges the Bureau to take any actions necessary, including creating new rules and waiving existing rules to facilitate the dissemination of Homework Gap support. To achieve this goal, we recommend that the Bureau create rules of priority that would come into operation should demand for Homework Gap technologies and services outstrip available funding. We think that the rule of priority included within last year's Emergency Educational Connection Act legislation, which would prioritize Homework Gap funding awards based on the E-Rate program's existing Category I eligible discount matrix, is a sensible way to proceed. This discount matrix assigns E-Rate eligible discount rates based on the number of students eligible for the federal free and reduced price lunch program and includes additional discounts for schools and libraries located in rural areas. Using the matrix as a way to assign priority in a fund scarcity situation, therefore, would ensure that urban and rural areas with the lowest income students are first in line for Homework Gap support. We also recommend that the Bureau consider additional prioritization measures to ensure equitable geographic distribution of these funds to allow all corners of the United States to benefit.

¹⁴ *Schools and Libraries Universal Service Support Mechanism*, CC Docket Nos. 96-45 and 02-6 and WC Docket Nos. 02-60 and 03-109 (2005).

EdLiNC recommends further that the Bureau use its authority to establish a 100% discount rate for all eligible E-Rate applicants seeking funding for Homework Gap technologies and services. The E-Rate's rules require that all E-Rate eligible applicants pay between 10% and 80% of E-Rate Category I services and between 15% and 80% for Category II services in order to ensure that applicants value the services for which they seek support and don't gold-plate their requests. EdLiNC has always supported this discount matrix in the context of the existing E-Rate program but here, in the midst of a terrible pandemic, we believe it more important that all schools and libraries are able to take advantage of Homework Gap support, including those who lack sufficient budget to pay the undiscounted percentages required ordinarily under the E-Rate program's rules. With many states, school districts, individual schools and libraries struggling financially owing to the economic downturn, we believe it unfair and unnecessary to add to their financial burdens by demanding they pay for some portion of the Homework Gap technologies and services they request, even if their undiscounted share is only 10%. Their students and teachers should not have to wait to connect from their homes while they scramble to come up with additional funding to partially defray for technologies and services that they did not contemplate having to purchase. To support our recommendation, we draw your attention to precedent for increasing the discount rate set in the Hurricane Katrina order, where the Commission increased the discount rate to 90% for all affected applicants. Additionally, the Bureau could help protect against gold plating and obviate the need for a below 100% discount rate by setting reasonable parameters on what the program will bear for some of the most expensive Homework Gap technologies and services, particularly laptop computers. For all of these reasons, we support a 100% discount for all eligible E-Rate applicants applying for Homework Gap support.

On a related matter, EdLiNC is concerned by reports that some schools and libraries have purchased devices that lack the computing power for video-conferencing, which is the way so many students attend school these days. Therefore, we recommend that the Bureau refer to minimum device specifications issued by major videoconference companies and issue guidance

to ensure that all devices purchased for Homework Gap have sufficient power for students, teachers and library patrons to participate in educational video-conferencing.

Finally, we recommend the Bureau waive certain existing E-Rate program rules that would unnecessarily erect obstacles to disbursing rapidly Homework Gap funds through the E-Rate. Specifically, we suggest that the Bureau waive the E-Rate Competitive Bidding and Bid Evaluation Rules, which require all E-Rate applicants to undergo a time-consuming and rigorous E-Rate service provider bidding process, including a 28-day Form 470 posting period, over and above the policies and procedures required of them by their state and local procurement rules. EdLiNC believes that state and local procurement rules are sufficiently rigorous to prevent waste, fraud and abuse in the program and ensure that E-Rate's precious resources are not misspent. As we have argued repeatedly in this filing, we believe that time is of the essence in disbursing Homework Gap support and that, in this emergency situation, we should waive the Competitive Bidding and Bid Evaluation Rules and recede to the state local procurement rules that govern school and library purchases. We recommend further that the Bureau consider waiving program rules related to invoicing, implementation and application deadlines as necessary as well as the program rules related to documentation and documentation retention. Finally, if the Bureau allows off-campus Internet access support, we suggest that it waive the Internet access cost-allocation requirement.

VII. EDLINC BELIEVES THAT THE BUREAU HAS THE AUTHORITY AND SHOULD USE IT TO REPURPOSE UNUSED E-RATE FUNDS HELD IN RESERVE ACCOUNTS AND UNAPPLIED FOR E-RATE FUNDS FROM E-RATE PROGRAM YEAR 2020 FOR SCHOOLS AND LIBRARIES TO PURCHASE HOMEWORK GAP TECHNOLOGIES AND SERVICES.

Finally, EdLiNC urges the Bureau to carefully review for their availability to be used for Homework Gap support all currently reserved E-Rate funds as well as Program Year 2020 funds for which applicants have not applied and which the Commission has not yet collected. With no assurance of additional funds arriving from Congress soon, we feel it is incumbent on the

Commission to make use of all E-Rate funds it deems available to alleviate to the greatest possible extent the Homework Gap problem that prevents so many students and teachers from participating in teaching and learning.

We recommend further that the Bureau allow E-Rate eligible applicants to use those funds for purchases of eligible Homework Gap technologies and services purchases made since July 1, 2020. We believe that allowing eligible applicants the opportunity to receive support starting with this current year strikes the appropriate balance between allowing support for past purchases made during the current E-Rate Program Year (unused funds from which we propose collecting and using for Homework Gap) and allowing support for purchases dating back to the beginning of the COVID-19 Public Health Emergency.

Finally, in the interest of assuring that applicants do not double-dip, we recommend that the Bureau require all E-Rate eligible applicants seeking Homework Gap support to certify that they are not seeking funds to cover purchases already made using other federal funds, including funds from the CARES Act and the COVID Relief and Recovery Act.

VIII. CONCLUSION

EdLiNC appreciates the opportunity afforded by this Notice to weigh-in on the Homework Gap and the Bureau's authority to use the structure of and available funding from the E-Rate to provide students, teachers and library patrons in need with home Internet access. We look forward to working with you to bridge the Homework Gap.

Appendix A

EdLiNC Member Organizations

AASA: The School Superintendents Association (AASA)
American Federation of School Administrators (AFSA)
American Federation of Teachers (AFT)
American Library Association (ALA)
Association of Educational Service Agencies (AESA)
Association of Latino Administrators and Superintendents (ALAS)
Association of School Business Officials International (ASBO)
CoSN -- the Consortium for School Networking (CoSN)
Council of Chief State School Officers (CCSSO)
International Society for Technology in Education (ISTE)
National Association of Elementary School Principals (NAESP)
National Association of Independent Schools (NAIS)
National Association of Secondary School Principals (NASSP)
National Catholic Educational Association (NCEA)
National Education Association (NEA)
National PTA (PTA)
National Rural Education Advocacy Coalition (NREAC)
National Rural Education Association (NREA)
United States Conference of Catholic Bishops (USCCB)