



E-Rate Central

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
The Emergency Connectivity Fund for) WC Docket No. 21-93
Educational Connections and Devices to)
Address the Homework Gap During the Pandemic)
)

**COMMENTS ON THE EMERGENCY CONNECTIVITY FUND
FOR EDUCATIONAL CONNECTIONS AND DEVICES TO
ADDRESS THE HOMEWORK GAP DURING THE PANDEMIC
(WC Docket 21-93; DA 21-318)**

E-Rate Central, the New York State E-Rate Coordinator, submits these Comments in response to the Public Notice DA 21-318 seeking comments on implementing regulations for the \$7.171 billion Emergency Connectivity Fund (“ECF”) under the American Rescue Plan Act of 2021 (“Act”).

In E-Rate Central’s view, the most pressing issue facing the Commission is whether and/or to what degree ECF funding should be set aside or budgeted for specific E-rate applicants. Without an allocation mechanism, it is unclear how limited funding can be distributed to schools and libraries in a fair and equitable manner.

Under the Act, the Commission is directed “to reimburse 100% of the costs associated with the purchase of eligible equipment and/or advanced telecommunications and information services” subject to the condition that the costs “may not exceed an amount that the Commission determines, with respect to the request by the school or library, is reasonable.”

E-Rate Central believes that there are two ways to interpret the Act’s “reasonable” condition, both of which can help ensure that ECF funds are distributed in a fair, equitable, and prudent manner.

One interpretation is that the reimbursement cost of any individual product or service must be reasonable in much the same manner that E-rate rules have always required that any product or service must be cost-effective. The second interpretation is that the reimbursement amount — in total — received by any individual school or library must be reasonable.

Both interpretations are addressed in the *Reasonable Support Amount* section of the Public Notice. With regard to the second interpretation, for example, the Public Notice seeks comment on retroactive purchases, allocations for Tribal schools and libraries, and, most importantly, funding caps to support “those students, school staff, and library patrons that are most in need.”

E-Rate Central strongly supports the establishment of funding caps as the means of broadly allocating ECF funding in a fair and equitable manner. Given the speed with which the ECF program must be implemented, the basic allocation methodology must be easily understood by the E-rate community and, to the extent possible, be one that could be administered by USAC with the greatest possible reliance on existing systems and tools.

From the viewpoint of both FCC regulations and USAC administrative procedures, one advantage of the funding cap approach is that it renders less important other issues raised in the Public Notice. Specifically:

- Questions of retroactive funding can be left to individual applicants. Whether an individual applicant chooses to use all or part of its allocated funding to cover off-campus expenditures incurred earlier in the emergency period or to purchase newer products and services, that decision can be left entirely up to that applicant.

- Similarly, the Commission need only broadly determine the eligibility of classes of equipment and services deemed necessary to support remote learning. This leaves final purchasing decisions up to individual applicants.

As a model and framework for implementing ECF funding caps, E-Rate Central recommends that the Commission look to the existing Category 2 budget mechanism¹ — with a slight twist. Prediscount Category 2 budgets are set based on per student or per square-foot factors against which applicants can request funding based on their own E-rate discount rates. For ECF funding, for which applicants are to receive 100% reimbursements, we suggest setting funding caps based on similar per student or per square-foot factors as adjusted by each applicant’s current discount rate. This has the effect of setting higher ECF caps for the more economically-disadvantaged and/or rural schools and libraries.

Perhaps coincidentally, the existing Category 2 budget factors — \$167.00 per student for schools and \$4.50 per square-foot for libraries, together with the \$25,000 entity minimum — would serve well under our ECF cap proposal. This is particularly advantageous because it permits use of USAC’s existing Category 2 budget tool, thereby allowing any existing E-rate applicant to easily calculate its ECF cap.

A school district with 1,000 students and a discount rate of 60%, for example, could easily calculate its ECF budget cap as follows:²

From USAC’s Category 2 Budget Tool: $\$167 \times 1,000 = \$167,000$

ECF Budget Cap: $60\% \text{ discount rate} \times \$167,000 = \$100,200$

An initial estimate of the total ECF cap, applying this same process to the entire E-rate applicant base (a portion of which may no longer be active) can be determined as follows:

¹ This approach is similar to recommendations already made in ex parte presentations to the Commission by [Funds For Learning](#).

² E-Rate Central recommends standardizing on Category 1 discount rates as reflected in an applicant’s most recently approved application, and prediscount Category 2 budgets as per USAC’s Category 2 Tool as of the date on the ECF Order.

- As of March 22, 2021, USAC’s Category 2 Budget Tool shows a total prediscount amount of \$10.5 billion. These prediscount Category 2 amounts are shown by state in Exhibit I.
- Based on USAC’s preliminary demand estimate for FY 2020 released May 1, 2020, the average discount for all FY 2020 applicants was 75%.
- As proposed, ECF caps for all applicants would total \$7.9 billion (i.e., 75% of \$10.5 billion).

Recognizing that a calculated cap of \$7.9 billion would exceed the \$7.0 billion of available ECF funding (adjusted to reflect the statutory set-aside to cover program administration and oversight), adoption of this proposal must consider methodologies to be employed should actual demand exceed or fall short of the \$7.0 billion. We propose the following:

- To the extent that requested ECF funding in an initial application window exceeds the total funding cap — unlikely in light of the FY 2015-2020 Category 2 budget cap experiences — the budget caps for all ECF applicants should be reduced proportionally. This would still ensure broad off-campus ECF funding for all interested schools and libraries.
- In the more likely event that funding remains available after the initial application period, the Commission has several options. It could, for example, open a second application window while at the same time:
 - Increasing the funding cap of all applicants that had reached their caps during the initial application window;
 - Increasing the funding cap of targeted applicants in Tribal and/or underserved rural areas; and/or
 - Soliciting grant proposals for innovative remote learning initiatives.

Conclusions:

In an ideal world, with ongoing E-rate funding available for both on-campus and off-campus products and services, there might be time for the Commission to undertake an exhaustive top-to-bottom review of E-rate policies and procedures. But the pandemic is not an ideal world. With

the American Rescue Plan, as it was with earlier COVID relief legislation, the primary goal is to get funding out broadly— not necessarily precisely if it would slow the process — as quickly as possible.

So too should it be with the Emergency Connectivity Fund. Fortunately, E-rate is an established program with existing and well-thought out rules to allocate funding to schools and libraries with different demographics. Although off-campus requirements may differ in some detail from traditional on-campus requirements, existing E-rate rules, regulations, and procedures can provide a sound basis for addressing the pandemic’s immediate needs of schools and libraries.

E-Rate Central encourages the Commission to adopt an approach to ECF funding, at least in an initial round, utilizing E-rate concepts and procedures most familiar to schools, libraries, and USAC itself. In our view, the best way to do this quickly and fairly is to establish ECF funding caps on a discount rate basis using a Category 2 type budgeting mechanism. Should additional ECF funding remain after an initial application cycle, the Commission may wish to target the extra funding to more specific targets.

Respectfully submitted by:



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