

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

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

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**COMMENTS ON THE PROVISION OF SUPPORT FROM THE EMERGENCY  
CONNECTIVITY FUND FOR EDUCATIONAL CONNECTIONS AND DEVICES TO  
ADDRESS THE HOMEWORK GAP DURING THE PANDEMIC**  
**(WC Docket 21-93; DA 21-317)**

The Buffalo & Erie County Public Library (B&ECPL), providing public library services to residents of Erie County, New York, submits these Comments in response to the Public Notice DA- 317 seeking comments on implementing regulations for the \$7.171 billion Emergency Connectivity Fund (“ECF”) under the American Rescue Plan Act of 2021 (“Act”).

The B&ECPL appreciates opportunity to comment on the areas raised by the Wireline Competition Bureau via Notice DA 21-317 released on March 16, 2021. We believe that providing access to the Internet to our patrons, some of whom may not be able to afford access otherwise, is fully consistent with our mission: *Connecting our diverse community with library resources that enrich, enlighten and entertain.* (<https://www.buffalolib.org/about-becpl/mission-statementvision-statementcore-valuesprinciples-ala-library-bill-rights> )

Our comments focus on achieving the desired programmatic goals in ways that do not unduly restrict access or increase administrative burden and are consistent with the B&ECPL’s mission and New York State Law relating to Public Libraries. Comments are preceded by a

brief listing of the relevant language from the notice.

### **CONCERN REGARDING MINIMUM BANDWIDTH BENCHMARK**

DA 21-317, page 7 paragraph 3, states in part:

*We also seek comment on whether the Commission should impose minimum service standards and data thresholds with respect to those services in order to consider them to be eligible advanced telecommunications and information services. If so, what should they be? In that regard, we seek comment on what standards are needed to enable and facilitate robust remote learning. In response to the Remote Learning Public Notice, commenters disagreed about whether the Commission's current benchmark of 25 Mbps downstream and 3 Mbps upstream is sufficient to adequately support remote learning needs.*

The B&ECPL is presently testing lending wireless hot spots to patrons, utilizing our existing library materials circulation system, effectively treating them in a similar manner to how we lend books or other library materials. Erie County, NY covers 1,043 square miles ( <https://www.census.gov/quickfacts/eriecountynyork> ) with portions of southern Erie County in particular, limited to lower bandwidth residential installed options (dial-up or satellite based service). Wireless carrier based Wi-Fi hotspots, the option being tested by the B&ECPL, is another option for providing services. Presently, bandwidth provided by the major wireless carriers providing service within Erie County can vary significantly by location.

The Commission's current bandwidth benchmark of 25Mbps downstream and 3 Mbps upstream, while easily achievable in more densely populated areas of the County with strong signal coverage, may not be achievable under current conditions in the very areas that need additional connection options the most (e.g. southern Erie County mentioned above).

While we support encouraging providers to improve bandwidth provision county-wide, we are concerned that if a hard and fast minimum of 25 Mbps is required, we might not be able to offer this needed service to our patrons under this program. Given the finite duration of

ECF, and the desire to rapidly introduce services, we suggest consideration be given to a generally available commercial wireless option allowance, for example, a 4G LTE cellular data plan.

### **REIMBURSEMENT FOR ALREADY ENTERED INTO CONTRACTS**

DA 21-317, page 10 LAST paragraph, states in part:

*As The E-Rate specific competitive bidding rules are a crucial driver of cost-effective purchasing and protecting limited E-Rate funds from waste, fraud, and abuse. However, we recognize that many schools and libraries have already entered into contracts to purchase eligible equipment and services to meet the remote learning needs of their students, school staff, and patrons. We therefore propose to allow eligible schools and libraries to seek reimbursement for the cost of eligible equipment and services purchased without having conducted a Commission-mandated competitive bidding process for purposes of the Emergency Connectivity Fund. Instead, we propose that the Commission require schools and libraries seeking funding from the Emergency Connectivity Fund to certify that they have complied with all applicable state, Tribal, or local procurement requirements with respect to the contracts they used to purchase eligible equipment and services.*

B&ECPL supports the recommendation *that the Commission require schools and libraries seeking funding from the Emergency Connectivity Fund to certify that they have complied with all applicable state, Tribal, or local procurement requirements with respect to the contracts they used to purchase eligible equipment and services.*

B&ECPL recommends this process apply to already entered into contracts be they single or multi-year contracts.

### **30-DAY EMERGENCY CONNECTIVITY FUND FILING WINDOW**

DA 21-317, page 12 paragraph 4, states in part:

*Application Process. We propose that the Commission direct USAC to open a 30-day Emergency Connectivity Fund filing window to allow eligible schools and libraries to apply for funding for eligible equipment and services purchases made or to be made*

*between January 27, 2020 and June 30, 2021, which is the period between the start of the COVID-19 emergency period and the end of E-Rate funding year 2021. Each E-Rate funding year runs from July 1st of one year through June 30th of the following year.*

B&ECPL notes that the proposed initial application window references E-Rate funding year 2021, however the dates provided, January 27, 2020 through June 30, 2021 represent the 2020 E-rate funding year. The 2021 E-Rate funding year, as noted on our recently filed Forms 471, covers July 1, 2021 through June 30, 2022. Is the intent to provide one 30 day window to cover the 2020 funding year, principally reimbursements, followed by a second window to cover the 2021 funding year? B&ECL believes it would be more cost effective to provide a special window to cover funding for eligible equipment and services purchases made or to be made between January 27, 2020 and June 30, 2022.

In either case a 30 day window for the initial round may be too compressed, given the range of activities already under way to respond to the pandemic. B&ECPL believes it would make more sense to have a longer filing window, 45-60 days, for applications covering reimbursements and purchases to be made between 1/27/2020 – 6/30/2022.

### **IMPORTANT CONCERN REGARDING PATRON PRIVACY**

DA 21-317, page 16 paragraph 1, states in part:

*As part of the documentation related to their compliance with the rules adopted by the Commission, we propose that Emergency Connectivity Fund participants be required to maintain an asset inventory of devices purchased with these funds and record at a minimum: (1) device type (i.e., laptop, tablet, mobile hotspot, modem gateway/router); (2) device make/model and equipment serial number; (3) the individual to whom the device was provided; and (4) the dates the device was provided to and returned by the individual.*

B&ECPL notes that documentation requirements (3) and (4) above are highly problematic for a public library operating in New York State as they violate patron privacy. The B&ECPL

has adopted the American Library Association (ALA) Library Bill of Rights, affirming *that all libraries are forums for information and ideas, and that the following basic policies should guide their services.* The ALA Library Bill of Rights elaborates core/basic policies to guide library services including a right to privacy: *All people, regardless of origin, age, background, or views, possess a right to privacy and confidentiality in their library use. Libraries should advocate for, educate about, and protect people's privacy, safeguarding all library use data, including personally identifiable information.* (<https://www.buffalolib.org/about-becpl/mission-statementvision-statementcore-valuesprinciples-ala-library-bill-rights> ).

Further, New York Consolidated Laws, Civil Practice Law and Rules - CVP § 4509. Library records, provides that:

*Library records, which contain names or other personally identifying details regarding the users of public, free association, school, college and university libraries and library systems of this state, including but not limited to records related to the circulation of library materials, computer database searches, interlibrary loan transactions, reference queries, requests for photocopies of library materials, title reserve requests, or the use of audio-visual materials, films or records, shall be confidential and shall not be disclosed except that such records may be disclosed to the extent necessary for the proper operation of such library and shall be disclosed upon request or consent of the user or pursuant to subpoena, court order or where otherwise required by statute.* ( <https://codes.findlaw.com/ny/civil-practice-law-and-rules/cvp-sect-4509.html> )

To ensure we follow the provisions of the ALA Bill of Rights and New York State Law, B&ECPL's automated circulation system is designed so that records of who checked out what item(s) are deleted upon return of said item(s). B&ECPL presently would be unable to comply with documentation requirements (3) and (4) above. We see no path to avoid conflict with the ALA Bill of Rights. Further, the only way B&ECPL sees it could meet the documentation requirements and remain in compliance with New York State Law would be to require patrons provide consent to borrow a Wi-Fi hotspot, denying their ability to borrow if said consent were not provided. Any attempt to obtain the information would also create a

substantial administrative burden on the B&ECPL, including staff time and programming expense.

Given the above considerations, should documentation requirements (3) and (4) above remain unchanged, it is likely the B&ECPL would conclude that it could not participate in the ECF program to provide WiFi hotspots for our patrons.

B&ECPL suggests that the objective of measuring Wi-Fi hot spot usage could be achieved without disclosing protected patron information using existing automated reporting methods. Our online circulation system currently tracks the number of times an individual item has circulated over a given period of time, however it does not retain information on the length of time between check-out and return once the item is returned. B&ECPL believes tracking the number of times each Wi-Fi hotspot circulated would provide a sufficient measure of usage while avoiding privacy concerns and administrative burden. B&ECPL respectfully requests consideration be given to this approach.

Thank you for the opportunity to offer comment on this very important program.

Respectfully submitted by:



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