

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

In the Matter of)
)
Establishing Emergency Connectivity Fund) WC Docket No. 21-93
To Close The Homework Gap)
)

COMMENTS OF THE COUNCIL OF THE GREAT CITY SCHOOLS

The Council of the Great City Schools is pleased to submit comments in response to the Commission’s Public Notice released on March 16, 2021 (WC Docket No. 21-93; DA 21-317) regarding the Emergency Connectivity Fund For Educational Connections And Devices To Address The Homework Gap During The Pandemic. The Council requests a flexible and targeted implementation of the Emergency Connectivity Fund to support school district provision of off-campus and at-home internet service for high poverty students, and the group urges quick action by the Commission to assist school districts with their ongoing efforts.

Introduction

In major cities and throughout the United States, public schools have revamped operations and instructional systems to help meet the unexpected COVID-19 challenges the nation has struggled with for over a year. In the first chaotic days of the crisis and with no promise of aid, urban districts organized to provide meals to millions of students and families, set up drop-off points, arranged home deliveries, and distributed meals at homeless shelters and to students on the street. On the instructional side, schools similarly made a rapid transformation from school-based to home-based learning and the energy, dedication, and urgency that have gone into these efforts have been extraordinary.

Since COVID-19 began forcing changes to K-12 instruction across the country, the nation has become more aware of the institutional inequities that exist in our public school systems, especially in large urban districts with some of the highest concentrations of students of color, English learners, and high poverty. The 77 school district members in the Council (representing approximately 0.5 percent of the 14,000 school districts in the US) enroll some 8 million urban students, including approximately 28 percent of the nation’s Hispanic students, 29 percent of the nation’s African American students, and 25 percent of the nation’s children living in poverty.

In the recent American Jobs Plan infrastructure proposal, the Biden Administration underscored the challenges for students enrolled in Council districts, “In urban areas as well, there is a stark digital divide: a much higher percentage of White families use home broadband internet than Black or Latino families.

The last year made painfully clear the cost of these disparities, particularly for students who struggled to connect while learning remotely, compounding learning loss and social isolation for those students.”

Many of the nation’s urban schools are opening this month for the first time in over a year, and those that have been open for in-person learning are still educating only a fraction of their students on campus. The E-Rate has been an invaluable resource to connect classrooms, but the urban students we enroll have long lacked the at-home access that is now essential to participate in a remote learning environment, including Internet connections, devices, and computers. The Commission’s fast action to deliver Emergency Connectivity Funds to support remote learning during the COVID-19 pandemic will be a great relief to school districts, as our work to ensure that urban students have reliable Internet access is ongoing, costly, and, to date, mostly covered at local expense.

As we did in our comments on the Public Notice regarding Addressing the Homework Gap Through the E-Rate Program (WC Docket 21-31), we also urge the Commission to resume consideration of the necessary and permanent use of E-Rate support for off-campus connectivity, as it has in the past. The nation’s schools must not continue to struggle to support the remote access that has long been needed for homework and other educational activities and is now recognized as an essential part of daily instruction and blended learning for many students. A flexible approach to the Emergency Connectivity Fund will not only support districts for their connectivity efforts, but it will serve as a pilot program for innovative approaches that support students wherever they learn.

Poverty-Focused Budget Funding Process

The key concepts we want to emphasize in our comments are flexibility and speed, and that begins with the funding allocation process the Commission uses. The Emergency Connectivity Fund (ECF) has a different purpose and should not mirror the E-Rate program’s requirements, but there are existing structures and formats from the E-Rate that can be adapted to align with the goal of the ECF. For example, beginning in Funding Year 2016, the Commission began allowing applicants to receive direct reimbursement from USAC. This decision simplified the invoicing procedures and allowed the program to speed disbursements to schools and libraries, a lesson that the ECF should benefit from.

The most essential element of the E-Rate program that the Council feels should be applied to ECF is the applicant budget process that is used for Category Two (C2) funding. With some modifications to target ECF funding on high need, the C2 budget process can be a familiar mechanism that applicants will readily understand and USAC can administer quickly. When the budget concept was introduced in a Public Notice in 2014, the rationale given by the Commission was that it would provide applicants with flexibility and predictability. As the Notice said at the time, providing “applicants certainty about the amount of funding that would be available to them” should also be a central component of the ECF’s implementation. The budget approach is certainly more desirable than the often drawn-out reimbursement process of the E-Rate’s old Priority Two funding, when local administrators remained in limbo awaiting word on when and how much of their submitted funding requests would be supported, if at all.

The Council supports the C2 budget approach but would modify the E-Rate system to calculate ECF school district funding based entirely on students in poverty. The emergency nature of the pandemic, and in particular the remote connectivity needs, differs significantly than E-Rate’s C2 goal of supporting broadband deployment to all of America’s schools and classrooms. While the E-Rate program includes a

poverty factor to determine the exact discount level provided to applicants, every student in a school district is factored into that program's C2 calculations through the per-pupil budget allocation. Studies consistently show that school-age children in lower-income households are especially likely to lack broadband access at home. So under the Emergency Connectivity Fund, we feel the per-pupil budget calculations should exclude non-poor students and focus funding on a more discrete universe: the children in poverty who have required remote learning assistance.

Since school districts will not be required to contribute a local share to qualify, an ECF matrix analogous to the discount matrix should also be used to provide an additional layer of priority for school districts in rural locations and those with the highest percentages of poverty. But the initial per pupil budget amount and calculation should be based on the number of students in poverty in the school district, as identified by FRPL in the National School Lunch Program or the approved poverty measure the applicant used in their recent E-Rate applications.

As an example, if the Commission allocates \$250 per-pupil for the ECF budget, a school district with 5,000 students in poverty (out of a total student enrollment of 10,000) would multiply 5,000 x \$250. The resulting \$1.25 million would be multiplied by the corresponding percentage in the ECF matrix. If the percentages in the existing C2 discount matrix are used, the school district's poverty percentage of 50% means that the \$1.25 million would be multiplied by 80%, and the \$1 million product of that calculation is the total ECF budget for that school district.

In this poverty-focused approach, another school district with 5,000 poor students but a total enrollment of only 6,500 would receive more funding than the above school district because the poverty percentage for the district was higher. So the calculation of 5,000 poor students x \$250 would remain the same, but the resulting \$1.25 million would instead be multiplied by 85%, or whatever higher percentage was included in the ECF matrix for applicants with higher concentrations of poverty. The ECF matrix could continue to differentiate between rural and urban applicants as the E-Rate discount matrix does, and we recommend that the Commission continue to treat districts at the highest levels of poverty equally, regardless of locale. If an existing discount matrix is used as a model, we would recommend the Category One matrix due to the 90% factor applied to school districts with the highest poverty percentages.

We are certain some commenters may support an ECF budget approach but balk at the poverty-focused per-pupil calculation the Council proposes. In anticipation of this resistance, we will note that on three separate occasions, Congress approved significant COVID-19 relief funding for school districts calculated entirely on disadvantaged students. The amount of Elementary and Secondary School Emergency Relief (ESSER) funds that States and school districts were allocated under the CARES Act, the Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act, and the American Rescue Plan (ARP) Act is based on the ESEA Title I funding formula. The Title I formula primarily uses a count of poor children, as well as neglected and delinquent, foster children, and students from families receiving TANF. Every child attending a school district is not included in the calculation of Title I funds, except when total enrollment is used as a denominator to calculate a districtwide percentage of poverty in order to further "weight" the initial count of disadvantaged students.

The poverty-focused approach from Title I will distribute almost \$200 billion in total ESSER funding over the three COVID relief bills, and it was approved by a White House and Senate that was under Republican control in 2020 and under Democratic control in 2021. The Emergency Connectivity Fund that Congress approved will provide relief for the same emergency as ESSER, albeit with only \$7 billion in financial

support. The E-Rate's Category Two budget is a simple, familiar, and efficient approach to allocate ECF quickly, but the limited funding necessitates even greater targeting than the traditional E-Rate budget approach, or funding will be stretched very thinly.

Eligible Items and Services

The flexibility the budget system provides to school districts is also how the Council recommends the Commission approach eligible items and services for the ECF. The program goal is to support off-campus connectivity on an emergency basis going back to the start of the pandemic in 2020, and while the American Rescue Plan outlined some of the allowable services and devices that can achieve that, we do not feel the statutory list should be considered exhaustive. When the proposed source of funding was E-Rate, the record in response to the Public Notice on Addressing the Homework Gap Through the E-Rate Program made clear that a flexible and all-inclusive approach to eligible services is required to connect students during the pandemic. We expect the requests for flexibility to remain ubiquitous in this ECF proceeding, especially since the ECF is not Universal Service funding and the Commission need not be constrained by whether a waiver of E-Rate rules is required.

Of course, urban school districts have relied heavily on traditional connectivity methods like hotspots and wired internet during the pandemic. Council members have likely purchased over a million mobile wireless or mifi hotspots since 2020 began and continue to cover their monthly fees. Our members have also paid for the initial sign-up and recurring monthly costs for wired internet subscriptions for tens of thousands of students to connect at home. Even though most of these services are going to students from households eligible under the Emergency Broadband Benefit (EBB) program, urban school districts were effectively excluded from EBB support since we typically cover the full expense for our students and families, and do not pass along any of the subscription costs to them. For a variety of reasons, many of our families are unlikely to sign up for free or discounted EBB services on their own, and ECF funding is needed to ensure we are reimbursed for these purchases retroactively and can continue to cover their costs going forward.

If they so choose, districts should also be permitted to use their budget allocations to build and deploy private LTE networks and fixed wireless services from the school campus into the community. The limitations of the E-Rate have historically affected school districts' abilities to undertake these projects and curtailed more widespread participation in remote learning once the COVID-19 emergency forced almost every school in the nation to close. Future proceedings can determine whether those limitations remain necessary for the E-Rate program, but they should not apply to ECF budgets during the emergency period. In fact, the ECF provides a unique opportunity for some districts to attempt services they have not previously, but which may prove a more cost-effective manner of connecting students in the long-term.

We appreciate the Commission's request for input regarding ECF support and believe districts should be given flexibility to use emergency funds to purchase any goods and services necessary to connect students and deliver instruction. The variety of efforts school districts are using to keep their communities connected encompass a broad range of services, and ECF flexibility is needed to support all of them. Our districts have sent school buses equipped with wi-fi signals to neighborhoods where connectivity is an issue. Learning management systems, antennas, base stations, in-home wi-fi routers and modems, SIM cards and installation and configuration costs should also be allowed under ECF, as well as the approval of voice services. Some districts have spent significant funds during the pandemic to expand on-premise VoIP solutions and extend voice services for employees working from home.

ECF support for remote connectivity and deploying district networks off-campus will also require greater protection, and we repeat the request from our recent petition that additional cybersecurity functions be supported. We also request that the Commission not include the broad application of CIPA requirements to devices and services with these funds. In some cases, off-campus access and filtering is possible through web-based or device-based approaches, but it would be impossible for applicants to police CIPA requirements and ensure compliance with connections directly from the home to a service provider. The retroactive application of such a requirement is unfair, and any prospective application should depend on the connectivity solution that is used.

ECF Should Not Condition Funding on Unnecessary Requirements

The Council's request for ECF flexibility means we do not support the Commission limiting emergency funds for services or devices based on certain conditions or standards. This belief starts with rejecting the proposal to only allow prospective or forthcoming purchases with ECF. This proposal assumes that since certain costs were allowable with other federal relief funds (such as the CARES Act), money has been readily available for prior purchases. However, the Elementary and Secondary School Education Relief (ESSER) funds approved by Congress must address a wide collection of district needs, from PPE to meal distribution and ventilation systems and academic needs. And ESSER funding approved in the CRRSA Act and the American Rescue Plan has yet to reach school districts.

Many school districts have also seen a reduction in their annual operational funding as states reduce education aid to reflect the additional federal funds that were approved, resulting in no additional benefit at the local level. The third round of ESSER funds under the American Rescue Plan also includes a required 20% expenditure to address learning loss, but none of the relief bills required technology purchases. In addition to learning loss, recent presentations by U.S. Department of Education officials indicated upcoming ESSER guidance might prioritize activities related to school reopening, which could make local officials hesitant to use funding for remote or at-home learning. Distance learning is an allowable use of ESSER funds, but the Commission should not assume that school districts will be able to direct the money towards the crucial connectivity gap with so many competing priorities.

The Commission should also allow the emergency purchase of devices and services without the competitive bidding process that accompanies E-Rate, at the very least for retroactive reimbursement of expenses. Following the closing of schools in 2020, districts were forced to take immediate steps to meet the needs of their students. Urban schools certainly understand that our use of funds under ECF and the entire American Rescue Plan will be subject to intense scrutiny, program reviews, and audits. We feel that submitting invoices for products and services that are ordered or received during the emergency period is sufficient documentation that state, local, or district procurement policies were followed to the extent possible. A self-certification on the ECF application to that effect might give further assurance to the Commission while minimizing burden for school districts.

The Council also understands the rationale for the Commission's proposal to impose minimum system requirements for connected devices and minimum service standards and data thresholds for advanced telecommunications and information services. We agree that participation in remote learning requires a device that can support an array of learning technologies, and minimum service and data thresholds are needed to enable and facilitate robust remote learning. But we disagree that emergency funding should be conditioned on whether such benchmarks were met when school districts had to get millions of students

connected at a moment's notice last spring. Devices that met these specifications were often ordered but not delivered. And in every city and urban area in the nation, there are neighborhoods that are underserved and lacking access to advanced telecommunications, or those where providers have not maintained their infrastructure. School districts were unable to decline telecommunications services for students from those areas based on minimum connectivity requirements when doing so would have left students with no connectivity at all.

Urban school districts have been using a substantial amount of their own funds to serve students since federal connectivity assistance has not yet materialized. The costs began in the spring of 2020, when widespread remote learning first launched, and have continued to accumulate in the 2020-21 school year as most urban districts are operating in either a hybrid or fully virtual environment. In many cities, the costs for providing students with internet access are actually increasing each month, as school districts successfully connect more students and as providers' initial promotional and "free sign-up" periods have concluded. An amendment to the Telecommunications Act's definition of advanced services, or a future proceeding on E-Rate and permanently ending the homework gap, can determine whether specific benchmarks and thresholds should be required. But districts made good faith and often extraordinary efforts to support remote learning, and these efforts should not be dismissed or devalued by requiring adherence to standards that are not practicably attainable for every student and in every home in an emergency.

The Council also recommends that the Commission reject conditions on funding because it adds layers that will inevitably delay disbursements to school districts. Additional requirements will increase the burden of the application and the number of items that USAC will need to review before funds are committed. For applicants, this may mean additional Selective Reviews, Program Integrity Assurance (PIA), or other audit functions that attempt to measure whether those requirements were met. Along those lines, we similarly request that a needs assessment should not be required for ECF. Not only will a requirement such as this increase applicant burden and USAC review time, but the needs assessment (as a required component of the technology plan) was specifically removed from the E-Rate requirements more than five years ago.

CONCLUSION

The passage in our introduction about the lack of internet access for urban students was taken from the Biden Administration's American Jobs Plan, a recent proposal to strengthen our nation's infrastructure and deploy reliable high-speed broadband to everyone in the nation. The goals of the plan are worthy, but currently remain only a future possibility as concrete legislative language and successful congressional action are high hurdles to surmount. The American Rescue Plan, however, was signed into law less than a month ago, and we appreciate the Commission's speedy action to turn the Emergency Connectivity Fund provisions into immediate and tangible support.

The COVID-19 crisis has provided an opportunity to address historical gaps in internet access and invest in solutions that transform schools and make a difference in the lives of urban students nationwide. While the challenges may be daunting and without precedent, urban school leaders and the dedicated professionals who work in our districts will persevere through the current school year and as long as the pandemic lasts. The goal of our large urban school districts is not simply a return to normal, but to reshape our educational systems into a new model that meets the needs of today's and tomorrow's students. The assistance of the Commission and funding from the Emergency Connectivity Fund is sorely needed to help our schools best serve the students, families, and communities in our cities.

Respectfully Submitted,



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