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April 5, 2021

SUBMITTED VIA ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
45 L St. NE
Washington, DC 20554

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

Dear Ms. Dortch:

The National League of Cities (NLC) welcomes the opportunity to provide comment on implementation of the Emergency Connectivity Fund. NLC represents the nation's more than 19,000 cities, towns and villages of all sizes. Although not every municipality directly administers school or library systems, many do, and many more operate related afterschool, summer, and wraparound programs and have collaborated closely with schools and libraries before and during the COVID-19 pandemic to address the urgent need for connectivity. For this reason, NLC believes municipal governments have a key role to play in the implementation of the Emergency Connectivity Fund.

NLC encourages the Federal Communications Commission (Commission) to interpret the language of the American Rescue Plan Act in a way that does not unduly exclude potential beneficiaries or uses. In particular, NLC encourages the Commission to take this opportunity to reach beyond households with students and beyond traditional school facilities, as many communities have needed to do this year. While much attention has rightly been focused on K-12 students' connectivity needs, many nonstudent populations rely on the connectivity services provided by libraries and have suffered greatly without that access during the COVID-19 pandemic. NLC also cautions the Commission from taking actions that would

punish or disproportionately burden schools, libraries and communities that acted quickly and used their own resources to make purchases and enter into bulk service provision contracts as a result of the pandemic.

Eligible Facilities Should Include Local Community Institutions

NLC appreciates Congress's and the Commission's recognition that, particularly in response to the pandemic, connected learning happens beyond the four walls of a school or library. NLC agrees that funding must be made available for students, library patrons and staff to conduct learning and work at home. NLC urges the Commission to also make community facilities (e.g., public parks, community centers, senior centers, day-use centers, municipally owned housing developments, and shelters) not currently part of an otherwise E-Rate eligible school or library eligible for this funding.

Over the past year, in recognition of the many children and households facing housing instability or homes unsuitable for ongoing learning, numerous cities have established socially distant opportunities for residents to do connected work in a safe space.¹ NLC agrees with the Commission that wi-fi enabled school buses and bookmobiles are an important way to extend connectivity and agrees that these uses should be eligible. However, the Commission should also incorporate the above-described other community facilities – generally not directly operated by schools or libraries – as eligible locations for fixed services. Even as schools shift toward reopening, enhanced connectivity support in parks, community centers, day-use facilities, and shelters will be needed to support the ongoing increased connectivity needs of communities. NLC urges the Commission to recognize that these facilities are more appropriate, and safer, than students and library patrons spending long periods of time in school and library parking lots to conduct learning, and so should be supported accordingly.

For this reason, NLC disagrees with the Commission's proposal to limit the use of Emergency Connectivity Fund dollars to exclude "category two" services, such as funding fiber and new networks. Particularly in the case of facilities other than schools and libraries already

¹ For example, the City of Orlando, Fla. has established "learning pods" in neighborhood centers throughout the city for students to safely access Wi-Fi and computers and conduct remote learning in a safe, supervised setting. These community centers are not owned or operated by the Orange County Public Schools district. See "[City of Orlando Launches 'Learning Pods' at Neighborhood Centers](#)," August 7, 2020.

participating in E-Rate, the investment of these funds in a permanent connection, such as for parks, community centers, senior centers, public housing developments and shelters, may represent the best investment of those dollars and lessen the need for further emergency and short-term connectivity measures for that community, particularly if they are able to begin providing service to users within a reasonable period of time.

Eligible Services and Devices Should Reflect Needs

NLC encourages the Commission to adopt generally similar standards for eligible services and devices as the Emergency Broadband Benefit. While ideally those standards would have encouraged the use of funds for more robust upload and download speeds than 25/3Mbps, in many communities, higher performance options do not exist. In addition, many community organizations and households already face a patchwork of federal, state, local and private support programs with differing participation requirements and standards. To the extent possible that the Commission can reduce confusion and burden for a school or local government assisting a household that may, for example, receive a broadband subscription discount under the Emergency Broadband Benefit, but a laptop or tablet with the support of the Emergency Connectivity Fund, it should do so.

However, the Commission should not support the imposition of data caps on services supported by the Emergency Connectivity Fund. While supported devices or services may reasonably be subject to other policies that may have the effect of limiting some uses, such as compliance with the Children’s Internet Protection Act, remote work and learning have proven to be enormously data-intensive activities. Data caps unfairly penalize students and potentially expose schools and libraries to unpredictable overage fees or monthly throttling. As seen over the past year, data caps simply do not work in the current digital learning environment that is bandwidth intensive.²

NLC also encourages the Commission to allow funding to be used for equipment, services and devices needed to ensure service by the listed modems and connected devices. For example, the Commission should allow installation costs, taxes and fees; equipment needed by students, staff and library patrons with disabilities; and equipment needed to adequately

² See [“Baltimore City Council Members Want Investigation Into Comcast Over Internet Data Usage Fees Amid COVID-19 Pandemic,”](#) January 29, 2021.

provide service in locations using fixed connections, such as cabling and additional network access points, repeaters and bridges. While these solutions were not allowable uses of the Emergency Broadband Benefit and may be difficult for consumers to implement themselves in homes, they provide an important tool for institutions establishing socially distanced connection options throughout a park, community center or housing facility and should be considered an appropriate use of funds.

Similarly, mobile hotspots and easily transportable devices such as tablets must be fully covered by the program. Schools, libraries and local governments have relied on them throughout the pandemic for an important reason: the students and library patrons most vulnerable to disruptions or changes in housing or the location in which they learn during the day are also often those most in need of help accessing a connection or device.³ While in most cases a fixed connection provides the highest-quality service, hotspots and mobile options will continue to be an important option for students and library patrons who move frequently or lack stable housing.

Support for Bulk Purchase or Subsidized Connectivity Programs

NLC appreciates the Commission's recognition that many school districts, library systems and communities have already acquired devices and set up bulk contracts for services in response to the pandemic. Bulk purchases and sponsored programs have been key tools in connecting households throughout the pandemic, and as such, should be eligible for Emergency Connectivity Fund support.⁴ Failure to do so will, rather than encouraging the model, discourage other communities and organizations from attempting similar programs – the opposite of Congress's and the Commission's intent in establishing this program. NLC also urges the Commission to make retrospective, not just prospective, reimbursement available to local bulk purchase for qualifying expenditures during the pandemic emergency period, dating from January 27, 2020, to ensure that these rapid actors are supported. These

³ See "[COVID-19 and crowded spaces: the not-so-easy start of virtual learning for homeless students](#)," August 26, 2020.

⁴ For example, in April of 2020, the City of Baltimore, Md., allocated \$3 million to fund technology for students learning remotely, out of the city's existing Children and Youth Fund, including distributing more than 12,200 Chromebooks and contracting with Comcast and T-Mobile to provide in-home internet access. (See "[City Council unanimously approves emergency legislation to help Baltimore residents](#)," April 28, 2020 and [Baltimore City Schools](#) website.)

programs have been designed in a variety of models, with supporting entities ranging from school districts, to local governments, to government-nonprofit consortia. These entities should be eligible for participation in the Emergency Connectivity Fund, even if they are not already E-Rate eligible entities.

Similarly, NLC cautions the Commission from overly restricting which entities can receive Emergency Connectivity Fund dollars based on participation in other programs or prior receipt of funding, particularly from the CARES Act. While many localities and states made emergency expenditures over the past year, those expenditures were unbudgeted, largely unreimbursed by the Coronavirus Relief Fund, and not permanently sustainable. Moreover, it is still unclear to what extent state and local relief funds from the American Rescue Plan will be explicitly available for bulk purchase or subsidized connectivity programs. In order to ensure that this model of locally driven digital inclusion work is supported, these programs must be eligible for participation – whether they are operated by a school system or by a local government partner – and should not be penalized for having secured other grant support.

Accountability and Prioritization

While no recordkeeping regime should be overly burdensome for the participants in the Emergency Connectivity Fund, the Commission could consider several data points as it determines how to best prioritize funding requests. The program should work to connect as many unconnected or under connected students and library patrons as possible. While Form 477 data may serve as a proxy, the Commission should be hesitant to rely on it as a primary measure leading to simply prioritizing rural areas – more unconnected people live in cities than in remote rural areas, with 15 million urban and metro households disconnected compared to 5 million rural households.⁵ Additional metrics could include local poverty rates, or any survey or study data collected by the participating school system, library system, or local government to determine household- or student-level broadband access.

For reimbursement of past purchases or contracts, NLC supports the Commission's proposal to require certification of compliance with relevant state, Tribal or local procurement policies.

⁵ See Bipartisan Policy Center, "[Understanding the Urban Digital Divide](#)," March 5, 2021.

NLC also discourages the Commission from creating an overly restrictive sunset process for the Emergency Connectivity Fund or an overly strict limit on possible uses for equipment and services. While the program was created in response to an emergent need, the benefit from any equipment or service purchased through the program should not immediately cease upon the pandemic's end as digital inequity will continue on. The COVID-19 pandemic has fundamentally changed the way that schools and libraries operate, and the way that local governments support their students and residents. Schools, libraries and communities should be able to take the lessons learned – and the technology acquired – during the pandemic and continue to apply it in the ways that they deem appropriate after the emergency declaration has ended. This may mean continuing to allow students or library patrons access to loaner laptops and hotspots, continuing to supply wi-fi on school buses, in homeless shelters and in community centers to support afterschool and summer learning, and selling equipment that has reached the end of its lifespan when appropriate to recoup funds for future connectivity support.

Conclusion

NLC appreciates the Commission's consideration of the above comments and those of other local government commenters. NLC supports and applauds the efforts of Congress and the Commission to create the Emergency Connectivity Fund to close the digital divide during the COVID-19 pandemic. NLC believes that these efforts will be most effective if the Commission takes an inclusive, rather than exclusive, approach to the program and learns from the creative efforts that local governments and their school and library partners have undertaken throughout the course of the pandemic emergency to reach students, staff and library patrons wherever they are. America's cities, towns and villages look forward to partnering further with the Commission as this and other programs are fully implemented.

Sincerely,



Clarence E. Anthony
CEO & Executive Director
National League of Cities