FUNDS FOR LEARNING
YOUR E-RATE GUIDES

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April 17, 2020

VIA ELECTRONIC FILING

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th St. SW
Washington, DC 20554

>   Re: *Ex Parte* **Submission**
>   ***Modernizing the E-rate Program for Schools and Libraries -- WC Docket No. 13-184***
>   ***Schools and Libraries Universal Service Support Mechanism -- CC Docket No. 02-6***

Dear Ms. Dortch:

On April 15, 2020, Cathy Cruzan and John Harrington met via teleconference with the following staff from the Wireline Competition Bureau: Sue McNeil, Special Counsel, Office of the Bureau Chief, and Gabriella Gross, Deputy Division Chief, Telecommunications Access Policy Division. We shared the attached presentation, titled "Online Education for All Students".

We began by describing the urgent need that exists to connect millions of K-12 students to online classrooms from home. The students lack adequate Internet access and local leaders are working diligently to get them connected; however, those efforts are impeded by a lack of financial resources and the FCC's own narrow interpretation of *Educational Purposes*. The E-rate program, with its existing processes, flexibility and technology-neutral, community-centric focus, is the most effective approach to connect students in this challenging time. Congress needs to provide special funding for the E-rate program and the FCC needs to open a special E-rate filing window. To get everyone online, schools and libraries require additional money as soon as possible, and the flexibility to use that money in a way that provides the greatest impact for their patrons.

We went on to explain in more detail how swift action by Congress and the FCC could close the educational divide and get disconnected students into online classrooms quickly. Congress could provide $5.25 billion in E-rate funding to support connectivity to online classrooms. This financial support would be available for off-campus Internet access, connected learning devices, and cybersecurity for school and library networks. In conjunction with this, the FCC could (A) update the E-rate funding year 2020 eligible services list and Category 2 budget factors; (B) waive its standard 28-day Form 470 bidding requirements; (C) open a special Form 471 filing window; and (D) direct USAC to implement a "Rapid Review and Payment Process" that issues funding commitment decisions and disbursements based solely on minimum processing standards and participant self-certifications. By waiving the typical USAC upfront review process, the financial aid could begin flowing not long after the applications were submitted.

<u>What Regulatory Changes Would Be Necessary?</u>

We offered our view that there is only one primary regulatory change necessary to enable the E-rate program to connect students to online classrooms: the presumption that Educational Purposes is limited to a school or library campus. The E-rate supports educational purposes, defined as "activities that are integral, immediate, and proximate to the education of students, or in the case of libraries, integral, immediate and proximate to the provision of library services to library patrons." (§54.500) The regulation specifically presumes that these activities will only occur on-campus. This is an outdated assumption and it is no longer applicable, a fact that has become particularly clear in the last few weeks. The FCC should keep the definition of educational purposes the same but eliminate the default requirement that it occur on-campus. To make clear this distinction, §54.500 could be amended with the phrase "including online activities off-campus" and deleting on-campus presumption:

> For purposes of this subpart, activities that are integral, immediate, and proximate to the education of students, or in the case of libraries, integral, immediate and proximate to the provision of library services to library patrons, <u>including online activities off campus</u>, qualify as "educational purposes."

We went on to explain that Section 254 of the telecom regulations makes clear that E-rate funds can be used to connect classrooms. Many classrooms today exist online, and the E-rate program should not discriminate against them. Millions of American students are sheltering in place *while attending class online*. They are attending class, doing activities that are integral, immediate, and proximate to their

education. Therefore, we do not believe that Section 254 requires any changes. The E-rate should continue supporting students in classrooms, wherever that classroom may be.

<u>Why Use the E-rate Rather than Create a New System?</u>

We described how the existing E-rate program is the best suited alternative for this difficult situation. First, and importantly, the current need to connect students to the Internet by supporting schools and libraries aligns precisely with the mission of the E-rate program. Connecting students and teachers to the Internet is literally what the E-rate program was created to do. The E-rate empowers local decision makers with the financial support and a range of technology options to connect their students. Furthermore, the existing program was founded on principles of "skin in the game" financial accountable, and a sliding scale of support that provides the most aid to the communities that need it the most. Having an existing system that works well avoids the need for the FCC to recreate a new wheel with some new method of ensuring an efficient and equitable distribution of funds.

We then explained that the E-rate program is available to begin receiving requests very soon. Delivering billions of dollars of additional support, in a timely and effective manner, will require robust systems and documentation. The E-rate system is well-established, with existing users and established procedures. It also needs to be user friendly. Applicants are familiar already with the forms and systems necessary to complete E-rate paperwork and there are designated school and library staff in place to prepare the necessary filings. This will produce faster results and fewer mistakes than if an entirely new system of rules and procedures were rushed into production. Furthermore, existing systems offer the additional benefit of guarding against waste, fraud and abuse. For example, participating entities have current bank account information on-file with USAC.

We reminded the FCC staff that there is precedent for special filing windows related to national emergencies. After Hurricane Katrina, a special filing window was opened in which all applicants were requested to submit requests with the designation "-k" at the end of the Form 471 form identifier. After the Hurricanes Harvey, Irma and Maria, another special filing window was opened in which the 28-day bidding requirement was reduced to 14-days.

With these prior special filing windows (and others) in mind, we stepped through an outline of the "USAC Rapid Review and Payment Process." It would include the following elements:

- Waiving the 28-day waiting period of the Form 470
- Allowing contracts to be submitted that were signed as early as March 1, 2020
- Processing Form 471 applications based solely on minimum processing standard and certifications
- Processing payment paperwork based solely on minimum processing standard and certifications
- Releasing funding decisions and invoice payments immediately as they are processed
- Pausing PQAs and post-disbursement auditing functions for these funds until September 30, 2020

We explained the benefits of using the Category 2 ("C2") system and described our C2 proposal in detail. We recommend that any new funds that are available be added to the existing FY2020 C2 budgets. Applicants would then be allowed to submit new Form 471 applications for C2 funding requests using their adjusted C2 balance under a special FY2020 filing window. The current site-by-site system of C2 budgets would still be utilized. This would allow applicants to more fully utilize their existing C2 budgets in conjunction with the new funding. If Congress were to provide $5.25 billion, we estimate that the revised FY2020 budget factors would as follows:

- For schools: $325.91 per students
- For urban libraries: $10.86 per square foot
- For rural libraries: $5.00 per square foot
- For small school and library locations: $19,988.56 per site minimum budget

For each site these budget an

Respectfully submitted,

/s/ John D. Harrington

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Online Education for All Students
Keeping K-12 Students Online and Learning

Allowing the Category 2 E-rate program to support students at home

Digital Learning Gap Divides Students

- Millions of K-12 students cannot attend online classes from home
- Local leaders are accountable to get those students connected
- Solutions to this challenge vary by region, location, and school type
- Support is needed quickly but there is no one-size-fits-all fix
- Billions of dollars required to close gap, with little room for mistakes
- Time is of the essence
- Every dollar counts and should be guarded from fraudulent activity

We <u>Can</u> Get Students Online
Prompt support available via existing E-rate systems

- Congress provide $5.25 billion of Category 2 E-rate to support:
  - Off-campus Internet access
  - Connected learning devices
  - Cybersecurity for networks
- FCC leverage existing E-rate rules and resources:
  - Expand educational purposes presumption to include off-campus access
  - Defer to local emergency bidding regs
  - Amend Category 2 eligible services list
  - Direct USAC to process additional Form 471 applications
  - Increase FY2020 Category 2 budgets by 80%

E-rate is Best Choice to Help Students

- **Speed**. Application available in days or weeks. Not a new program.
- **Less risk.** Existing system can handle high volume of requests.
- **Simple.** Less burden for schools and libraries who already know rules.
- **Equitable**. Higher support for economically challenged communities.
- **Empowerment.** Local leaders can select best tech for their situation.
- **Accountable.** Strong oversight guards against waste, fraud and abuse.
- **Safer.** Applicant information on-file already, including bank accounts.
- **Cost-effective.** Discount + budget caps promote affordable solutions.

E-rate is Designed to get Students Online

- Consistent with the program's founding principles
  - Connecting students to broadband
  - Local decision making with "skin in the game" for tech choices
  - More support for economically disadvantaged communities
- Category 2 gives applicants options while protecting USF
  - Adding items to ESL allows schools and libraries new options
  - But does not increase pressure on USF because budgets are capped
- Certifications guard funding, ensure it goes to support connectivity
  - Applicants and vendors certify to their actions
  - Document trail is ready for review and audit

Pitfalls to Avoid

- One-size fits all solutions mandated by Congress or FCC. For example:
  - Wi-Fi hotspots may be good solution in one community, but not another
  - Block grant formulas treat everyone same, but the needs are not uniform
- Political system that can favor one community over another
- Brand new systems and forms
  - Intensive application activity requires robust, time-tested system
  - New programs require steeper learning curve for applicants
- Loss of accountability, price gouging and anti-competitive behavior
- Using tax payer money to create new system and hope it works
  - **The E-rate has built-in protection against all of these pitfalls.**

Implementation Details

Necessary adjustments to FCC and USAC policies and procedures

E-rate Supports Educational Purposes (Section 54.500)
Expanding presumption to include all educational activities

- §54.500 needs to be amended

- Current <u>presumption</u> is that activities occur *on property*

- §54.500 <u>does not state</u> off-campus activities cannot be educational

- Expand presumption to include online education anywhere it occurs

   For purposes of this subpart, activities that are integral, immediate, and proximate to the education of students, or in the case of libraries, integral, immediate and proximate to the provision of library services to library patrons, including online activities off campus, qualify as "educational purposes."

USAC Rapid Review and Payment Process
Streamlined application and distribution of funding

- Form 470s processed based on state/local bidding rules only
  - No additional FCC requirements (e.g. waive 28-day contract waiting period)
  - Allow retroactive contracts to March 1, 2020, prior to Form 470 posting
- Form 471's processed by minimum processing standards
  - Applications rely on self-certifications
  - Requests funded weekly; No need to tally demand because of C2 budgets
- Payment paperwork processed by minimum processing standards
  - Invoices processed immediately, relying solely on certifications
  - Funds distributed quickly
  - All PQAs, audits, etc., after funds disbursed, not sooner than Sept. 30.

Keeping K-12 Students Online and Learning

Allowing the Category 2 E-rate program to support students at home

Online Classrooms for Students

Providing secure connections for 7,148,974 households

Connection	Total Expense	E-rate Portion	School & Library
Household Connection (50 Mbps - 12 months)	$4,289,384,400	$2,983,148,445	$1,306,235,955
Connected Learning Device (Category 2)	$1,787,243,500	$1,242,978,519	$544,264,981
Network cybersecurity (Category 2)	$1,461,904,602	$1,021,561,547	$440,343,056
Total	**$7,538,532,502**	**$5,247,688,511**	**$2,290,843,992**

Congress provides $5.25 billion for E-rate portion

Applicants pay balance
many by leveraging stimulus funds from U.S. Department of Ed

Revised C2 Budget Factors (FY2020)

| Entity	Current	Revised
School	$195.63 per student	$325.91 per student
Urban Library	$6.52 per sq. ft	$10.86 per sq. ft
Rural Library	$3.00 per sq. ft	$5.00 per sq. ft
Funding Floor	$11,998.43 per site	$19,988.56 per site

A Closer Look at the Divide

Data reported in 2019 highlight K-12 students lacking Internet at home

7.15M households cutoff during COVID-19

78.3 Million Family Households in America
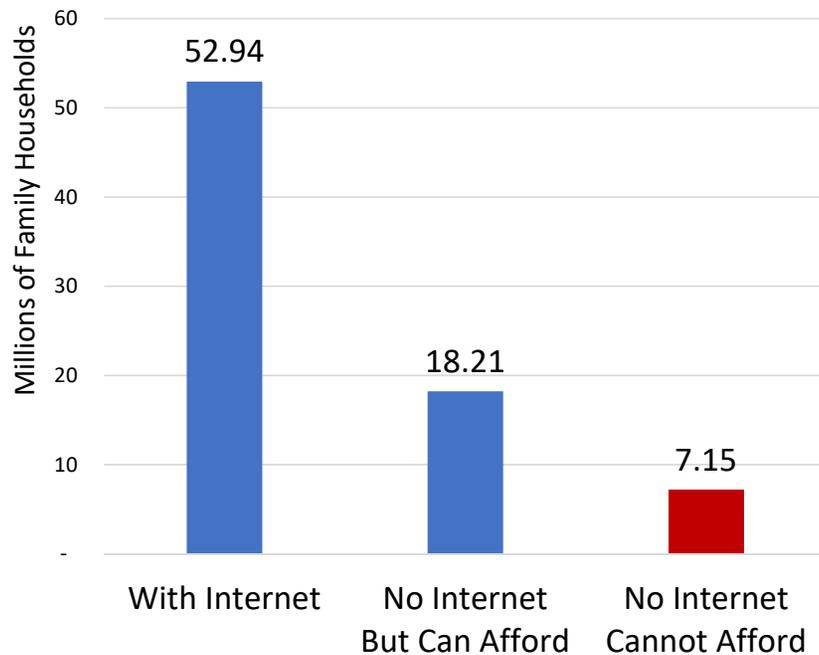
- 9% of families cannot afford Internet*
- Pandemic brings digital isolation
- Millions of students + teachers offline
- Cut off from school and colleagues
- Forced to visit parking lots for Wi-Fi
- Receiving hard copies of assignments

*Derived from GAO Report to FCC and NCES statistics
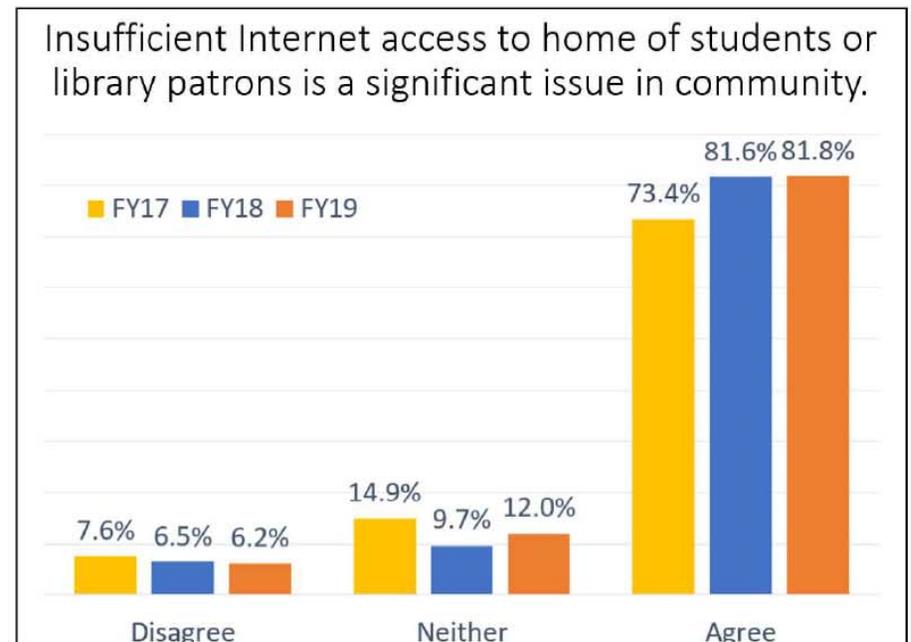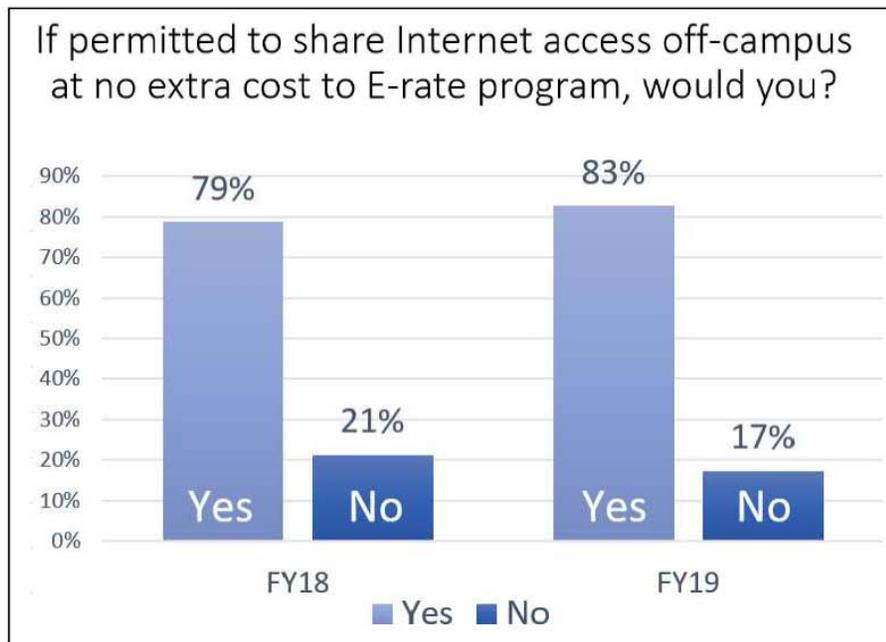
GAO: FCC Make Off-Campus Access Eligible
Pre-pandemic report urged FCC to consider changes

- *[E-rate program rules] may limit schools' ability to provide wireless access off-premises.*

- *… students who lack [Internet] access are at risk of missing opportunities to advance their education. Internet access is crucial not only inside the classroom— where it enables teachers to provide a richer learning experience—but also outside the classroom, because access is frequently necessary for doing homework.*

- *"Underconnected" students—those with limited or no access at home—may have difficulty doing homework, putting them at risk of falling behind better-connected peers, a condition known as the "homework gap."*

https://www.gao.gov/assets/710/700629.pdf

Homework Gap Impacts 82% of Applicants
2019 survey indicates need was there prior to COVID-19

If permitted to share Internet access off-campus at no extra cost to E-rate program, would you?

Insufficient Internet access to home of students or library patrons is a significant issue in community.

Estimating the Investment

Calculating the support necessary to connect K-12 students at home

Number of Family Households w/out Internet

Household Income	Family Households [1]	Households without Internet %[2]	Households without Internet Count	Households without Internet + *cannot afford it* %[3]	Households without Internet + *cannot afford it* Count
Less than $25,000	11,031,520	48%	5,295,130	48%	2,541,662
$25,000 to $49,999	15,978,579	39%	6,231,646	34%	2,118,760
$50,000 to $74,999	14,362,139	32%	4,595,884	20%	919,177
$75,000 or more	36,926,465	25%	9,231,616	17%	1,569,375
Total	**78,298,703**		**25,354,276**		**7,148,974**

[1] Counts from https://nces.ed.gov/programs/edge/Economic/NeighborhoodPoverty

[2] https://www.gao.gov/assets/710/700629.pdf (Figure 1, page 5)

[3] https://www.gao.gov/assets/710/700629.pdf (Figure 2, page 6)

Recurring Annual Cost to Connect Households

Count of households	7,148,974
Monthly cost per household	$50
Annual Cost per household	$600

Annual cost for all households	**$4,289,384,400**
E-rate portion (avg C2 discount = 70%)	$2,983,148,445
Applicant portion (avg payment = 30%)	$1,306,235,955

- Assumes $50 per household for highspeed Internet access
- Cost calculated for an entire 12 month period
- E-rate discount calculated using Category 2 method

One-time Cost for Connected Learning Device

Count of households	7,148,974
Total Cost per household	$250

Annual cost for all households	**$1,787,243,500**
E-rate portion (avg discount = 70%)	$1,242,978,519
Applicant portion (avg payment = 30%)	$544,264,981

- Assumes $250 per household
- E-rate discount calculated using Category 2 method

58,688,283 Reasons to Support Cybersecurity

School District Size (by count of sites)	Count of Districts	Count of Indiv. Sites	Average Site Count	Average Headcount			Nationwide Total Headcount		
				Students	Staff	Total	Students	Staff	Total
A: Single	8,321	8,321	1	334	22	356	2,783,144	182,173	2,965,317
B: 2 - 4	7,099	19,789	3	919	62	981	6,524,249	433,667	6,957,916
C: 5 - 9	3,282	20,407	6	2,898	185	3,083	9,510,822	593,161	10,103,983
D: 10 - 24	1,579	22,426	15	7,499	467	7,966	11,840,975	722,980	12,563,955
E: 25 - 49	403	13,368	34	20,290	1,262	21,552	8,176,864	489,612	8,666,476
F: 50+	228	24,746	112	66,454	4,137	70,590	15,151,464	908,446	16,059,910
Total/Overall	**20,912**	**109,057**	**5**	**2,582**	**165**	**2,746**	**53,987,518**	**3,330,039**	**57,317,557**

School district, school sites, and enrollment data based on E-rate Manager® data
Staff counts estimated based on student-teacher ratios provided by https://nces.ed.gov/surveys/ntps/StuTeachRatio.asp

System Size	Library Systems	Site Count	Est. Staff Count[2]	Est. Daily Visitors[2]	Total Est. Daily Users
Single Branch	1,956	1,956	31,296	166,260	197,556
2 to 9 sites	1,066	4,330	69,280	369,369	438,649
10 to 19 sites	166	2,208	35,328	188,272	223,600
20 or more sites	120	5,046	80,736	430,185	510,921
Total	**3,308**	**13,540**	**216,640**	**1,154,086**	**1,370,726**

[1] Library systems and branch counts based on E-rate Manager® data

[2] Based on 2017 IMLS Survey https://www.imls.gov/research-evaluation/data-collection/public-libraries-survey

- **Estimated daily users**
  - **57.3 million K-12 students and staff**
  - **1.4 million library visitors and staff**
- **High volume of remote users increases risk**

One-time Cost for Network Cybersecurity

Cost per Applicant

Number of Users	Fixed	Per User
1 to 299	$5,000.00	$15.00
300 to 599	$15,000.00	$7.50
600 to 1,999	$35,000.00	$5.00
2,000 to 5,999	$150,000.00	$3.75
6,000 to 9,999	$200,000.00	$2.25
10,000 or more	$275,000.00	$1.75

- Assumes expenses are based on a per applicant model
- Costs calculated based on number of users, using both a fixed price and variable price
- Prices estimated based roughly on industry pricing data and models

$1.46 billion to help secure nation's networks

Estimated K-12 Cybersecurity Costs

School District Size	Applicants	Total Expense	E-rate Portion	School Portion
Single site	8,321	$133,464,279	$88,935,725	$44,528,554
2 to 4 sites	7,099	$294,590,212	$203,175,831	$91,414,381
5 to 9 sites	3,282	$432,949,544	$294,305,045	$138,644,498
10 to 24 sites	1,579	$331,605,630	$234,979,659	$96,625,972
25 to 49 sites	403	$118,133,011	$84,451,064	$33,681,947
50 or more sites	228	$89,430,433	$67,934,422	$21,496,011
Total/Overall	**20,912**	**$1,400,173,109**	**$973,781,747**	**$426,391,362**

Estimated Public Library Cybersecurity Costs

System Size	Library Systems	Site Count	Total Expense	E-rate Portion	Library Portion
Single Branch	1,956	1,956	$12,743,340	$9,849,898	$2,893,442
2 to 9 sites	1,066	4,330	$21,191,685	$16,243,043	$4,948,642
10 to 19 sites	166	2,208	$6,928,000	$5,326,311	$1,601,689
20 or more sites	120	5,046	$20,868,468	$16,360,548	$4,507,920
Total	**3,308**	**13,540**	**$61,731,493**	**$47,779,800**	**$13,951,693**

Minimal Changes to E-rate

Minor adjustments required to existing regulations and procedures

Expanding Educational Purposes

- Current focus is on activities that occur on library or school property
  - *Educational purposes.* For purposes of this subpart, activities that are integral, immediate, and proximate to the education of students, or in the case of libraries, integral, immediate and proximate to the provision of library services to library patrons, qualify as "educational purposes." Activities that occur on library or school property are presumed to be integral, immediate, and proximate to the education of students or the provision of library services to library patrons. - **§54.500   Terms and definitions.**

- Limiting educational purposes to on-campus is no longer applicable

Expanding Category Two

- Currently internal connections, basic maintenance, & managed Wi-Fi
- Proposed additions:
  - Off-campus Internet access goods and services
  - Connected learning devices
  - Cybersecurity goods and services

Emergency Considerations

- Waive 28-day waiting period for Forms 470
- Waive typical PIA procedures for COVID-19 Form 471 filing window
- Use only minimum processing standards to process applications
- Issues FCDL's based solely on self-certifications on Form 471
- Increase FY2020 C2 budgets proportionate to Congressional funding