Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Establishing Emergency Connectivity	)	WC Docket No. 21-93
Fund to Close the Homework Gap	)	
	)	
Modernizing the E-rate Program for	)	WC Docket No. 13-184
Schools and Libraries	)	

REPLY COMMENTS OF FUNDS FOR LEARNING

Funds For Learning ("FFL")[1] submits these reply comments in response to the Federal Communications Commission's ("FCC" or "Commission") Public Notice[2] seeking comment on the provision of support through the Emergency Connectivity Fund ("ECF") established by American Rescue Plan Act of 2021.[3]

I.   INTRODUCTION

With Congress making available $7.17 billion to address the connectivity needs of students, school staff, and library patrons during the COVID-19 pandemic, the Commission has an important opportunity to help close the Homework Gap. We offer the following recommendations to ensure the most efficient and effective use of this critical, though limited, support. Our comments are based on our long history working with schools and libraries across the country – of all sizes and types, in both rural and urban areas – and aimed at ensuring that every student in the United States has access to the internet.

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[1] Funds For Learning, LLC, is a national E-rate-compliance consulting and web services firm. For the past 24 years, FFL has dedicated itself exclusively to the needs of E-rate stakeholders. Our clients include schools, school districts, and libraries from across the country, of all sizes and types and in both rural and urban areas.

[2] *Wireline Competition Bureau Seeks Comment on Emergency Connectivity Fund for Educational Connections and Devices to Address the Homework Gap During the Pandemic*, Public Notice, WC Docket No. 21-93, DA 21-317 (rel. March 16, 2021) ("Public Notice").

[3] American Rescue Plan Act, 2021, H.R. 1319, 117th Cong., tit. VII, § 7402 (2021) ("American Rescue Plan Act").

First, in determining what amount of support is "reasonable," the Commission should use a modified version of the E-rate program's Category Two budget system to calculate the funding available on a per-applicant basis, with reimbursement authorized for eligible expenditures up to that amount. Second, the Commission must recognize that schools and libraries are in the best position to determine the needs of their students, teachers, and patrons and allow support for any solution deemed necessary to facilitate remote learning. Third, to distribute ECF support, the Commission should direct USAC to open a 45-day filing window to allow applicants enough time to submit complete and accurate applications. If demand does not exceed available funds during the first application period, the Commission should direct USAC to open a second, subsequent filing window, with requests prioritized using the E-rate discount rate until funds are exhausted. Fourth, the commission should leverage existing E-rate program oversight controls and practices to promote fiscal accountability and safeguard limited program funds.

II. REASONABLE SUPPORT AMOUNT

A. A Modified Version of the E-rate Program's Category Two Budget System Should be Used to Calculate the Reasonable Support Amount

In determining what amount of support to consider reasonable, the Commission should avoid establishing arbitrary, allowable price ranges for services and equipment. Instead, a modified version of the E-rate program's Category Two budget system should be used to calculate the reasonable support amount on a per-applicant basis, and reimbursement should be authorized for eligible expenditures up to that amount. This model provides an efficient, equitable, and predictable distribution of limited program funds. It guarantees access to a certain level of funding for all schools and libraries irrespective of their overall need while also targeting schools and libraries with the most need using a sliding scale of support.

B. The E-rate Discount Rate Can Closely Gauge the Homework Gap in a Community

Insufficient home internet access is a significant issue in 90% of communities.[4] Given the widespread nature of the problem, the ECF should provide support for any student, staff, or library patron who lacks broadband access, regardless of the overall degree of economic need in a community. At the same time, support should be prioritized for schools and libraries in communities that need it most. To effectively target those schools and libraries, the E-rate discount rate can be used gauge the approximate level of the Homework Gap in a community.

According to the Government Accountability Office, household income level is the most significant factor in identifying the percentage of school-age children who lack adequate Internet access at home.[5] The E-rate discount rate is calculated based on the level of economic poverty in a community. Therefore, applicants with a higher E-rate discount rate generally represent communities with a higher level of the Homework Gap. Because the degree of the Homework Gap in a community strongly correlates to the E-rate discount rate, using the E-rate discount rate to determine the level of support available can help direct support to communities that need it most.

This approach will also improve the efficiency and efficacy of the ECF. The discount rate is an existing piece of information that is readily available and verified as part of the current E-rate application process. Reporting the E-rate discount rate does not require applicants to conduct new surveys or gather additional information. It is a known quantity and using it will save applicants and USAC precious time and energy in determining the level of available support.

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[4] *See* 2020 E-rate Trends Analysis, Funds For Learning Ex Parte Submission, WC Docket No. 13-184, CC Docket No. 02-6 (filed July 17, 2020), https://ecfsapi.fcc.gov/file/1071774292501/20200717%20Applicant%20Survey%20Results%20WCB%20Ex%20Parte.pdf.

[5] U.S. Gov't Accountability Office, GAO-19-564, FCC Should Assess Making Off-School Premises Access Eligible for Additional Federal Support 23 (July 2019).

C. Calculating the Reasonable Budget Amount for Reimbursement (RBAR)

Using a modified version of the existing E-rate program C2 budget system, the ECF's Reasonable Budget Amount for Reimbursement ("RBAR") should be pre-determined using objective criteria to calculate the maximum reimbursement amounts quickly and equitably. Using this approach, each school or library would be allowed to apply for reimbursement up to an amount calculated using the RBAR formula below:

<u>**Reasonable Budget Amount for Reimbursement (RBAR) Methodology**</u>

School RBAR
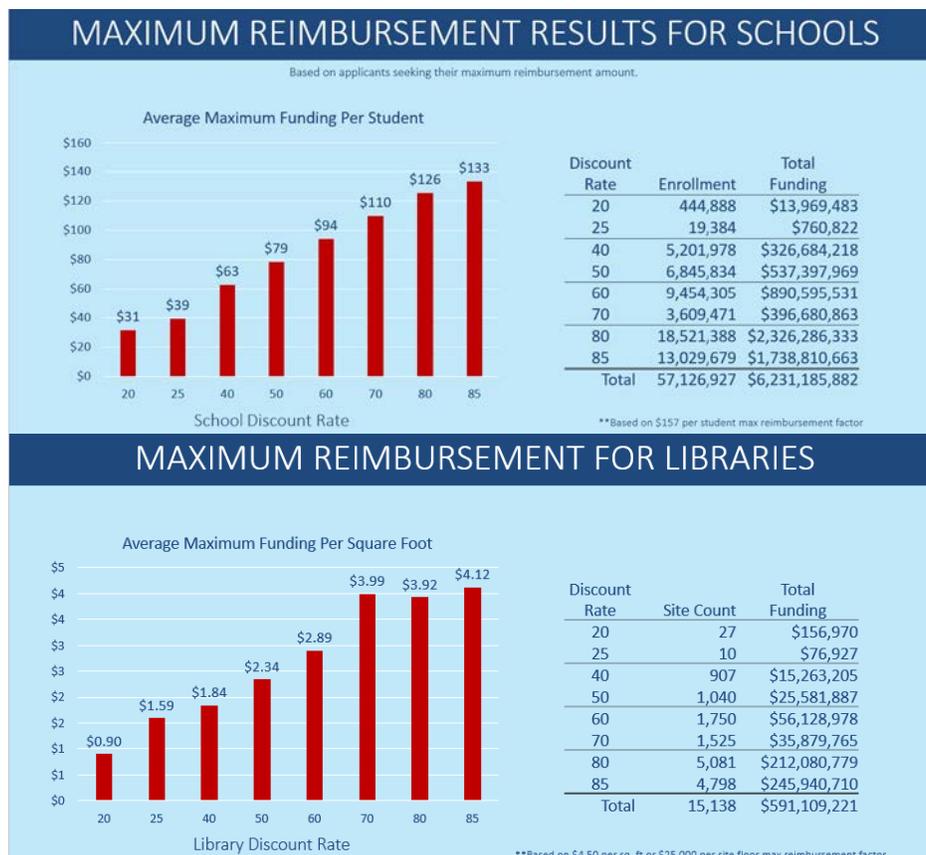$$School\ RBAR = Student\ Enrollment\ \times E-rate\ Discount\ \times \$157$$

Library RBAR (maximum of the following two equations)
$$Library\ RBAR = Square\ Footage\ \times E-rate\ Discount\ \times \$4.50$$
$$Library\ RBAR = E-rate\ Discount\ \times \$25,000$$

Using these formulas and the most recent E-rate discount rate information, it is possible to estimate the maximum amount of reimbursement each school and library could request.

MAXIMUM REIMBURSEMENT RESULTS FOR SCHOOLS

Based on applicants seeking their maximum reimbursement amount.

Average Maximum Funding Per Student

Discount Rate	Enrollment	Total Funding
20	444,888	$13,969,483
25	19,384	$760,822
40	5,201,978	$326,684,218
50	6,845,834	$537,397,969
60	9,454,305	$890,595,531
70	3,609,471	$396,680,863
80	18,521,388	$2,326,286,333
85	13,029,679	$1,738,810,663
Total	57,126,927	$6,231,185,882

School Discount Rate: 20=$31, 25=$39, 40=$63, 50=$79, 60=$94, 70=$110, 80=$126, 85=$133

**Based on $157 per student max reimbursement factor

MAXIMUM REIMBURSEMENT FOR LIBRARIES

Average Maximum Funding Per Square Foot

Discount Rate	Site Count	Total Funding
20	27	$156,970
25	10	$76,927
40	907	$15,263,205
50	1,040	$25,581,887
60	1,750	$56,128,978
70	1,525	$35,879,765
80	5,081	$212,080,779
85	4,798	$245,940,710
Total	15,138	$591,109,221

Library Discount Rate: 20=$0.90, 25=$1.59, 40=$1.84, 50=$2.34, 60=$2.89, 70=$3.99, 80=$3.92, 85=$4.12

**Based on $4.50 per sq. ft or $25,000 per site floor max reimbursement factor

Depending upon the poverty level in a community, we estimate that the RBAR for schools would range from $31 to $133 per student. For libraries, the average range would vary from $0.90 per square foot to $4.12 per square foot. Like the C2 budget system, this approach supports a fair and equitable distribution of funding. It guarantees every school and library access to a certain level of funding. At the same time, it targets schools and libraries with the most need using a sliding scale of support that corresponds to the relative need. Using the E-rate discount rate to calculate the RBAR also takes into consideration the rural or urban status of school or library, thereby continuing to provide more support for applicants serving lower-income and rural populations.

D. Stakeholders Broadly Support the Adoption of a Modified C2 Budget System Model

Many stakeholders agree that the modified C2 budget model offers a straightforward, easy to understand approach to equitably distribute ECF support. For example, Connected Nation voiced its strong support by encouraging the Commission to "look to E-rate Category 2 as a prime example of an effective, equitable framework for ECF funding distribution – just as FFL has proposed."[6] Connected Nation also points out that the modified C2 budget model would greatly improve USAC's administration of the ECF program. Rather than "reinventing the wheel," it suggests that "a better path forward would be to utilize the people and processes that USAC already has in place—and allocate funds based on a formula that emulates E-rate Category 2 . . . ."[7] The E-rate Management Professionals Association noted the significant advantages to the C2 budget model – including ensuring that all schools and libraries across the country are able to participate in the program – and encouraged the Commission to adopt FFL's modified C2 budget system. The Schools, Health &

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[6] Connected Nation Comments at 1.

[7] *Id.* at 1.

Libraries Broadband ("SHLB") Coalition agreed that FFL's model would address almost all concerns about waste, fraud, and abuse, while also expediting the award of funding.[8]

A number of commenters also support similar variations of the modified C2 budget model which also use established funding caps.[9] While different parties have proposed different solutions, virtually all stakeholders agree that ensuring an equitable, predictable, and efficient distribution of funds is critical. Given the widespread support for a system which uses pre-determined budgets based on objective criteria, we urge the Commission to adopt the modified C2 budget approach as outlined above because it best addresses the need to efficiently distribute support while targeting funding to schools and libraries serving the most economically disadvantaged communities.

III. ELIGIBLE SERVICES AND EQUIPMENT

A. ECF Support Should Be Available for Solutions Deemed Necessary to Facilitate Remote Learning

Rather than reverting to an eligible services policy with narrow definitions and strict requirements, ECF support should be available for any hardware, software, and/or service that a school or library deems necessary for remote learning. The objective, where at all possible, should be to provide schools and libraries with maximum choice to select a solution that works best for them. Therefore, in this important regard, we encourage the Commission to adopt an approach that makes eligible as many options as possible.

B. The Commission Should Allow Schools and Libraries to Make Their Own Decisions About Which Services and Equipment Best Meet Their Needs

The American Rescue Plan Act placed some parameters on the distribution of ECF support. However, it left a great deal of discretion to schools and libraries concerning the use of funds received.

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[8] Schools, Health & Libraries Broadband Comments at 6.

[9] *See, e.g.,* American Library Association Comments at 9; Association of California School Administrators and California School Boards Association Comments at 3; Consortium for School Networking Comments at 14.

We agree with SHLB that the Commission should use the flexibility in the legislative language to allow schools and libraries to make their own decisions about which services and equipment will best meet their communities' needs.[10] As SHLB notes in its comments, while the legislation includes a few specific requirements – such as requiring the Commission to reimburse 100% of the costs for eligible purchases and identifying certain services and equipment that must be eligible for funding – for the most part, the legislation left the details to be determined by the FCC and the schools and libraries themselves. For example, the legislation requires that support be provided for the purchase of "advanced telecommunications and information services" but does not specify what types of technologies are eligible.[11] Instead, Congress left this task to the Commission. The Commission should use this flexibility to allow schools and libraries to determine the needs of their communities and purchase the solutions that best meet those needs.

C. Schools and Libraries Must be Empowered to Make Purchasing Decisions Without Excessive Regulation and Administrative Complexity

Schools and libraries are in the best position to determine the needs of their students, teachers, and patrons and should be empowered to make purchasing decisions without unnecessarily restrictive requirements. The Commission should therefore avoid adding unnecessary complexity by defining a circumscribed list of eligible equipment. Similarly, it should not foreclose technology options by limiting ECF support to the purchase of the equipment listed in the American Rescue Plan Act.[12] While the statute identifies five types of equipment that must be eligible for support, it does not specifically state that ECF can *only* be used for this equipment. In fact, as SHLB points out, the House

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[10] SHLB Comments at 2.

[11] *Id.* at 2.

[12] *See* American Rescue Plan Act § 7402(d)(6). Section 7402(d)(6) defines eligible equipment as (1) Wi-Fi hotspots, (2) modems, (3) routers, (4) devices that combine a modem and router, and (5) connected devices.

Commerce Committee report language encourages the Commission to support different technological solutions.[13]

To define a distinct list of eligible equipment or services is to ignore the true nature of the challenges facing schools and libraries. The needs of schools and libraries are not uniform, and there is no on-size-fits-all solution to address the Homework Gap. Allowing for a variety of solutions increases the chance of finding a cost-effective solution that best fits an individual applicant's needs. Accordingly, in determining which services and equipment to deem eligible for support, the Commission should keep its rules as broad as possible and provide schools and libraries maximum choice with the primary consideration being whether the services are used to support off-campus education.

IV.   APPLICATION PROCESS

Rather than limiting the ECF filing window to 30 days,[14] the Commission should direct USAC to open a 45-day window to ensure schools and libraries have sufficient time to request ECF support. With a new program come new rules and requirements. Applicants will need time to plan and prepare their applications and, if necessary, conduct procurements for eligible services and equipment while ensuring compliance with program rules. While speed and efficiency should be the objectives in distributing ECF support, ample time should be set aside to allow applicants to submit complete, accurate applications for funding.

If funding commitments do not exceed available funds after the initial round of applications, the Commission should, as it suggests, direct USAC to open a second filing window with requests prioritized based on an applicant's E-rate discount rate until funds are exhausted. The discount threshold methodology of prioritizing funding requests is well-suited for a second filing window.

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[13] SHLB Comments at 4.

[14] Public Notice at 12.

Whereas the primary goal of the initial filing window is a fast and equitable distribution of funding, the primary goal of a second filing window should be an emphasis on supporting applicants who have extraordinary needs, prioritized by the level of their E-rate discount rate.

V. PREVENTING WASTE, FRAUD, AND ABUSE

As the Commission recognizes, the E-rate program has tools in place which can be used to guard against waste, fraud, and abuse in the ECF program.[15] Requiring applicants to document that ECF support was used to provide off-site broadband services or connected devices is a reasonable and effective solution to ensure compliance with program rules. Similarly, subjecting applicants to compliance audits, as in the E-rate program, can serve as a minimally disruptive process to promote compliance with ECF rules and ensure funds are being properly used. We firmly support the use of these and similar oversight controls to ensure safeguard the limited program funds. We also endorse the Commission's proposal to require participating schools and libraries to certify their compliance with all applicable state and local procurement requirements with respect to existing contracts for the purchase of eligible equipment and services. While we encourage the Commission to make the application and distribution of funds during this emergency period as simple as possible, these measures strike an appropriate balance between the need to quickly distribute support with the Commission's obligations to ensure the most efficient use of limited ECF funds.

To further protect against waste, fraud, and abuse, we also encourage the Commission to make ECF-related procurement data publicly accessible, as it currently does in the E-rate program. Requiring schools and libraries to report what they are buying, from whom, and at what price will promote financial accountability, drive cost-effective decision making, and ultimately help deter

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[15] Public Notice at 15. For example, the Commission suggests requiring ECF participants to retain records related to their participation in the ECF It also proposes to subject ECF participants to compliance audits as it does in the E-rate program, and to require participants to provide documentation related to their involvement in the ECF upon request from the FCC or USAC.

misuse of program funds. Further, as EducationSuperHighway ("ESH") suggests in its comments, it can play an important role in closing the Homework Gap.[16] ESH notes that E-rate data transparency was a critical driver for bridging the digital divide for public schools.[17] By making E-rate procurement data transparent, applicants were able to see what other schools and libraries were paying for similar broadband connections and, in turn, leverage this information to negotiate better deals with service providers. The result was more bandwidth at lower costs. We agree with ESH that data transparency can help close the Homework Gap and lead to similar results in the ECF program. Making this information public will allow the Commission and other stakeholders to track progress in closing the Homework Gap and create accountability for leaders to take actions necessary to achieving connectivity goals. We therefore encourage the Commission to make robust data transparency a priority in the ECF program.

VI.   CONCLUSION

FFL appreciates the opportunity to submit these reply comments. The ECF is an important step to support remote learning during an unprecedented public health crisis. To get the most out of the program, and for all of the foregoing reasons, we encourage the Commission to adopt rules consistent with the recommendations herein.

Respectfully submitted,

FUNDS FOR LEARNING

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[16] EducationSuperHighway Comments at 9-10.

[17] *Id.* at 9.