

ALA American Library Association

Public Policy and Advocacy Office 1615 New Hampshire Ave. NW Washington, DC 20009

May 6, 2021

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

RE: Ex Parte filing

Establishing Emergency Connectivity Fund to Close the Homework Gap, WC Docket No. 21-93

Dear Ms. Dortch:

On Tuesday, May 4, 2021 Amber Gregory, Manger of E-rate Services at the Arkansas State Library and chair of the American Library Association's E-rate task force and the undersigned representing the American Library Association, met with Austin Bonner of Commissioner Stark's Office and Wednesday, May 5, 2021 with Carolyn Roddy of Commissioner Simington's office and separately with Lisa Hone, Johnnay Schreiber, Kate Dumouchel, Gabriela Gross, Joseph Schlingbaum, Zachary DiLeo, and Molly O'Connor of the Wireline Competition Bureau to discuss elements of the draft Emergency Connectivity Fund order that will impact library participation in this critical program. The following topics were included in these meetings. By phone, the undersigned also spoke with Travis Litman and Ramesh Nagarajan of the Acting Chairwoman's office specifically on the matter of tribal library eligibility.

Requiring certain patron data

We discussed paragraph 58 in which certain patron data is required to ensure compliance and prevent waste fraud and abuse. We requested that libraries not be required to provide the name and location of patrons that receive eligible services or equipment from the library. While we appreciate the effort to safeguard patron privacy, we reiterated that fact that libraries are bound by state privacy laws which prevent them from sharing personal information except by court order. We further point out that the system through which libraries loan materials, including hotspots or tablets, is programed to delete patron records after a certain amount of time, from as soon as the item is returned and checked back into the system or after a certain

number of transactions. In one instance, the patron has discretion to go into her or his record and determine how long the library can keep their records. An alternative is to allow libraries to certify that they provided equipment or services to registered library users and provide circulation data. We provide several examples of state patron privacy laws in an appendix.

Eligible equipment and services

We requested additional eligible services to be considered to allow for maximum flexibility for the library to determine which connectivity solutions are most effective, cost-efficient, and expedient. We discussed alternative connectivity solutions libraries have undertaken throughout the pandemic to connect otherwise unconnected patrons. Because hotspots do not work in every situation, especially in rural areas with inadequate cell coverage, libraries have also purchased equipment necessary to extend their WiFi signal to neighboring buildings or public spaces. To illustrate this, we provided an example from Arkansas in which a library installed antennas to extend WiFi coverage at three branch locations to reach a Boys and Girls Club, a school building, and a courthouse.

In this instance, equipment for one branch included: Wireless Access Point (Outdoor AC Mesh 802.11ac 1.71 Gbit/s Wireless Access Point 2.40 GHz, 5 GHz - MIMO Technology - 2 x Network (RJ-45) Gbe (pole/wall-mountable); Wireless Access Point (Indoor WAP 802.11ac 1.27 Gbit/s Wireless Access Point 2.40 GHz, 5 GHz – MIM Technology - 2 x Network (RJ-45) Gbe); Security Gateway; Cloud Management Key (UniFi Cloud Key Gen2 Network Monitoring Appliance); Ubiquiti Surge Suppressor/Protector; WiFi Configuration Services. This information, including cost details, is also filed in WC Docket No. 21-31

https://ecfsapi.fcc.gov/file/1021787378311/ALA_Homework_Gap_Comments_02162021.pdf.

Application Window

We discussed the merits of one application window to allow applicants the flexibility to determine if they would apply for retroactive or plan for prospective reimbursements. We now reference a joint ex parte filing in this Docket by the Remote Learning Coalition that details this approach as an alternative to the current proposal to have an initial window for retroactive reimbursements

<https://ecfsapi.fcc.gov/file/1050549509836/Remote%20Learning%20Coalition%20Ex%20Parte%205.5.2021%20filed.pdf>.

Tribal library eligibility

We raised the concern that the draft order does not properly address the eligibility of tribal libraries because it instead reinforces the requirement that eligibility hinges on the state library agency recognizing the tribal library as eligible for LSTA assistance. By the IMLS statute, tribal libraries are thus eligible and we believe it is more accurate to reference the IMLS statute. We urged the Commission to seek technical assistance from IMLS to ensure the language does not inadvertently cause many tribal libraries to be ineligible.

We discussed the following program administration issues that ALA already submitted in the record and are providing additional examples as requested.

Billed entities in EPC

Libraries in EPC who currently apply for E-Rate discounts may apply under a new or different billed entity for ECF. To ensure that the application, review, invoicing, and audit processes are accurate and streamlined for both applicants and those monitoring program compliance, we would like to see additional flexibility in the current EPC setup for ECF that allows for new or additional billed entities (parents) for the eligible library (child).

For example, an eligible library or library system may apply for internet access discounts in the E-Rate program under the city or county who pays the internet access bill directly to the service provider. For the ECF program, it may be the library or library system who pays the bills directly to the service provider, not the city or county. Because the eligible library or library system is already set up in EPC under the city or county, this scenario would require a workaround in the current EPC system. We want to ensure that applicants are able to accurately apply and certify to program compliance for ECF benefits from application through review, invoicing and audit. We believe that adding a text or narrative box to denote additional billed entities for eligible entities would be an easy solution.

BEAR and SPI reimbursement

We believe allowing both the BEAR and SPI reimbursement options will increase library participation in the ECF program. Many libraries are under municipal or other governmental jurisdiction, and they unable to accept direct reimbursement. In these instances, ECF funds would be reimbursed to the municipality's general fund and not to the library that made the

purchase. Offering an SPI reimbursement option as well as BEAR reimbursement would solve this challenge.

Direct USAC to engage in user testing

We suggested that USAC leverage its current outreach programs with E-Rate stakeholders to engage in user experience testing for the ECF portal. State E-Rate coordinators and other stakeholders are familiar with both applicants and the current EPC portal and are willing to assist with user testing to ensure a user friendly and accurate application process. Sufficient time to conduct such testing should be accommodated in determining the opening of the application window.

Please contact the undersigned with any questions.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Marijke Visser', followed by a horizontal line.

Marijke Visser
Senior Policy Advocate
Public Policy and Advocacy Office
American Library Association

Appendix: Examples of state laws governing patron privacy

Massachusetts: <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXII/Chapter78/Section7>

That part of the records of a public library which reveals the identity and intellectual pursuits of a person using such library shall not be a public record as defined by clause Twenty-sixth of section seven of chapter four.

Wisconsin: <https://docs.legis.wisconsin.gov/document/statutes/ch.%2043.pdf>. 43.30 Public library records.

43.30(1m): Records of any library which is in whole or in part supported by public funds, including the records of a public library system, indicating the identity of any individual who borrows or uses the library's documents or other materials, resources, or services may not be disclosed except by court order or to persons acting within the scope of their duties in the administration of the library or library system, to persons authorized by the individual to inspect such records, to custodial parents or guardians of children under the age of 16 under sub. (4), to libraries under subs. (2) and (3), or to law enforcement officers under sub.

Ohio: <https://codes.ohio.gov/ohio-revised-code/section-149.432>

(3) Subject to division (B)(5) of this section, "patron information" means personally identifiable information about an individual who has used any library service or borrowed any library materials.

(B) A library shall not release any library record or disclose any patron information except in the following situations:

(1) If a library record or patron information pertaining to a minor child is requested from a library by the minor child's parent, guardian, or custodian, the library shall make that record or information available to the parent, guardian, or custodian in accordance with division (B) of section [149.43](#) of the Revised Code.

(2) Library records or patron information shall be released in the following situations:

(a) In accordance with a subpoena, search warrant, or other court order;

(b) To a law enforcement officer who is acting in the scope of the officer's law enforcement duties and who is investigating a matter involving public safety in exigent circumstances.

<https://codes.ohio.gov/ohio-revised-code/chapter-1347> (governing disclosure of personally identifiable information)