

July 25, 2019

Commission’s Secretary

Office of the Secretary

Federal Communications Commission

445 12th Street, SW

Washington, D.C. 20554

Dear Federal Communications Commission:

Subject: Notice of Proposed Rulemaking: WC Docket No. 06-122, FCC 19-46, Universal Service Contribution Methodology

**COMMENTS OF THE CALIFORNIA DEPARTMENT OF EDUCATION OPPOSING PROPOSED UNIVERSAL SERVICE FUND CAP CHANGES**

The State of California serves over 6.2 million students in over 11,000 public schools. The California Department of Education (CDE) provides support and leadership to over 1,100 school districts, with 28 percent small schools or schools in rural areas. The CDE opposes the Federal Communications Commission’s (FCC) proposal to establish a single spending cap over the four unique Universal Service Fund (USF) programs and to merge the E-Rate and Rural Health Care program caps. These proposed administrative changes conflict with the underlying federal statutes and violate House Amendment 483 to H.R. 3551. Morevover, the proposed administrative changes will not facilitate greater broadband access, promote operational efficiencies, or otherwise serve the public interest.

California Department of Education staff supports school districts that are working to promote equitable access to digital learning, including encouraging local and regional efforts to expand school and home access to high capacity broadband. The CDE works to provide advice and support to local education leaders, policymakers, and network staff to help them deliver seamless digital learning experiences to their students at school and at home. This support includes helping school districts take full advantage of the vitally important USF *Schools and Libraries Program* (E-Rate) for delivering the high capacity broadband access required for contemporary teaching and learning.[[1]](#footnote-1)

Since 2014, the State of California has allocated over $60 million to upgrade broadband connections for the last hard to reach schools across the state. While utilizing almost $25 million of E-Rate also, over 400 schools are now connected to high speed broadband. However, the work is not yet complete. In July 2019, California’s governor allocated an additional $7.5 million to bring fiber broadband connections to under/unconnected schools. These funds are conditional on the use of E-Rate rebates.

Sufficient E-Rate funding must be available to help school districts address remaining broadband shortfalls. For this reason, and the reasons described below, the CDE strongly encourages the FCC to forgo establishing an aggregate cap on the Universal Service Fund’s four programs and not merge the existing program-level caps for the E-Rate and Rural Health Care programs as proposed by the above captioned proceeding.[[2]](#footnote-2)

**CONGRESS ESTABLISHED DISTINCT USF PROGRAMS FOR A PURPOSE AND ESTABLISHING A SINGLE USF CAP WOULD FRUSTRATE CONGRESS’S INTENT**

The Commission’s proposal in this rulemaking exceeds the Commission’s regulatory authority as it conflicts with underlying statutes providing that “specific, predictable and sufficient” support is needed for each of the USF programs. Establishing an aggregate USF cap and a statutorily-baseless system for measuring the relative value of the four USF programs would frustrate Congress’s intent and the programs’ vitally important and unique high-need consumer focus areas. Moreover, on June 25, 2019, the US House of Representatives unanimously adopted House Amendment 483 to H.R. 3551, the FY2020 Appropriations Act prohibiting the implementation of any rule that would effectively impose a cap on the USF or place USF programs under a shared cap.

If the Commission truly desired to consolidate programs without violating Congressional intent, it could simply revise the rules to allow for the coordinated allocation of costs between the various projects and programs.

**COMBINING THE E-RATE AND RURAL HEALTH CARE PROGRAM CAPS COULD SLOW SCHOOLS’ PROGRESS TOWARD THE MODERNIZATION ORDER’S CONNECTIVITY GOALS**

The FCC’S proposal to establish a single budgetary cap for the E-Rate and Rural Health Care programs could divert needed broadband resources away from students. Sharing resources between these two unique programs could result in less available E-Rate funding during any funding year. The threat of money diversion is real because the Rural Health Care Program demand has “risen over the past three years with a sharp increase in demand in FY2017…”[[3]](#footnote-3) Although E-Rate demand did not meet the program’s cap in the most recent funding year, it was not because schools’ broadband needs have reduced. Rather, they have shifted from Category one to Category two, but the per pupil limitations on Category two funding for internal connections at schools is prohibitive. The CDE believes that if the Category two limitations were eased and per pupil funding increased, the cap would be easily reached.

**CONCLUSION**

The CDE appreciates the significant efforts on behalf the FCC to modernize E-Rate and support schools. E-Rate is an essential program that, even with its “bumps”/challenges, has connected students to the world beyond the four walls of their classroom. The CDE looks forward to continuing to work with the FCC and other states to connect all students.

Sincerely,



Stephanie Gregson, Ed.D., Deputy Superintendent

Performance, Planning, and Technology Branch

SG:gb

1. *See e.g., The Broadband Imperative II: Equitable Access for Learning,* State Educational Technology Directors Association (September 2016). [↑](#footnote-ref-1)
2. Federal Communications Commission, Note of Proposed Rule Making re Universal Service Fund Contribution Methodology, FCC 19-46; WC Docket No. 06-122, Federal Register p. 27571, June 13, 2019. [↑](#footnote-ref-2)
3. *Universal Service Administrative Company 2018 Annual Report*, p.7. Viewed online at [www.usac.org](http://www.usac.org). [↑](#footnote-ref-3)