

Before the
Federal Communications Commission
Washington, DC

In the Matter of:

Modernizing the E-Rate Program for Schools and Libraries)	WC Docket No. 13-184
Connect America Fund)	WC Docket No. 10-90
Schools and Libraries Universal Service Support Mechanism)	CC Docket No. 02-6

**Comment in Support of Petitions for Waiver by
Boulder Valley School District
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Summary

Boulder Valley School District (BVSD) requests that the Commission grant its Petition to waive the cost allocation rule in 47 C.F.R. § 54.504(e) for off-campus broadband use under the circumstances described in its Petition.¹ Granting this Petition would ensure that students living in Boulder’s low-income housing community who lack internet access have the profoundly important ability to use the internet during after school hours for educational purposes.

The Commission has consistently emphasized the importance of local innovation in efforts to bridge the Homework Gap, and has made clear that its E-Rate program is designed to complement and encourage communities’ efforts to bring advanced telecommunications to their classrooms.² As local school administrators are often in the best position to understand the needs of their communities, the Commission’s rules should allow flexibility in such efforts to bridge the Homework Gap.

BVSD’s program to connect its fiber ring with a low-income housing project is consistent with the goal of the E-Rate program in ensuring all students have access to the resources they need to be successful in their educational endeavors. In granting this Petition for waiver, the Commission can also incentivize other school districts to participate in similar innovative projects to bridge the digital divide.

¹ Petition for Waiver of Boulder Valley School District and Samuelson-Glushko Technology Law & Policy Clinic, WC Docket Nos. 13-184, 10-90 (filed May 16, 2016), <https://ecfsapi.fcc.gov/file/60001843683.pdf> (Petition).

² See “Detroit’s Digital Divide”, FCC Blog, Chairman Tom Wheeler and Commissioner Mignon Clyburn, (Oct. 27, 2015) (“There are multiple barriers to broadband adoption: from cost, to digital literacy to the fact that many Americans do not see the Internet as relevant to their lives. If we ever hope to achieve universal broadband in the United States, we will need a concerted effort from private sector leaders, the public interest community, and government officials at all levels.”), <https://www.fcc.gov/blog/detroit-s-digital-divide>.

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Discussion

The Boulder Valley School District (BVSD) and Samuelson-Glushko Technology Law and Policy Clinic respectfully comment on the Commission’s September 19, 2016 Public Notice.³ We urge the Commission to grant the Petition to waive the cost allocation requirement in 47 C.F.R. § 54.504(e) for off-campus use of BVSD’s existing E-Rate supported broadband network. We also comment in support of the joint Petition from Microsoft referenced in the Public Notice.⁴

In the past decade, the Commission has initiated many efforts to bridge the digital divide—the gap that separates those citizens who have access to high-speed internet services from those who do not. A recent PEW Research study found that nearly 70% of teachers now assign homework assignments online, which poses significant difficulties for students in low-income households, who are four times more likely to be without broadband than their middle or upper-income counterparts.⁵ The Commission has recognized that this particular aspect of the digital divide, the “Homework Gap,” may contribute to decreased academic performance and may hinder a student’s potential to meaningfully participate in the growing digital economy.⁶

The Boulder Valley School District in Boulder, Colorado is one of many institutions seeking to remedy this problem. In particular, BVSD seeks to bridge the Homework Gap with a connection from its existing high-speed broadband network to a local low-income housing development to

³ *Wireline Competition Bureau Seeks Comment on Petitions Regarding Off-Campus Use of Existing E-Rate Supported Connectivity*, Public Notice, WC Docket No. 13-184, WC Docket No. 10-90, CC Docket No. 02-6 (Sept. 19, 2016), https://apps.fcc.gov/edocs_public/attachmatch/DA-16-1051A1.pdf (“Public Notice”).

⁴ Joint Petition for Clarification or, in the alternative, Waiver of Microsoft Corporation, Mid-Atlantic Broadband Communities Corporation, Charlotte County Public Schools, Halifax County Public Schools, GCR Company, and Kinex Telecom, WC Docket No. 13-184 (filed Jul. 7, 2016), <https://ecfsapi.fcc.gov/file/60002098542.pdf>.

⁵ John B. Horrigan, *The numbers behind the broadband ‘homework gap’*, PEWRESEARCHCENTER (Apr. 20, 2015), <http://www.pewresearch.org/fact-tank/2015/04/20/the-numbers-behind-the-broadband-homework-gap>.

⁶ See Statement of Commissioner Jessica Rosenworcel, *Modernizing the E-Rate Program for Schools and Libraries, Report and Order*, 29 FCC Rcd. 15538, 15634, WC Docket No. 10-90, 13-184, (Dec. 19, 2014) (“Statement of Commissioner Rosenworcel”); see also Prepared Remarks of FCC Chairman Wheeler, The Brookings Institution 6 (Jun. 26, 2015), https://apps.fcc.gov/edocs_public/attachmatch/DOC-334141A1.pdf.

provide students who live there with the means to complete homework assignments, conduct research, apply for college or scholarships, and other educational activities.

While BVSD's fiber network is not subsidized using funds from the FCC's E-Rate program, ongoing internet service fees are subsidized. Connecting the fiber ring to low-income housing would incur no additional costs to the Universal Service Fund, and would offer both high speeds and a secure connection for students at home. Any costs associated with the link-up will be funded through partnership with the local housing authority and not federal E-Rate funding.

The Commission can facilitate the implementation of this project by granting this Petition for waiver of its cost-allocation rule, which presently would require BVSD to proportionally sacrifice any of its E-Rate discount used to provide at-home access to its students during after-school hours.⁷ Doing so would be consistent with both localism and the goals of the E-Rate program.

I. Because local school administrators are in the best position to understand the unique needs of their communities, the Commission's E-Rate rules should allow flexibility that promotes locally-led efforts to bridge the Homework Gap.

As noted by the Commission in the Public Notice seeking comment on this Petition, the Communications Act has mandated the implementation of many programs over the course of the years designed to ensure that schools and libraries have access to advanced telecommunications services.⁸ As a result of these tremendous efforts at the federal level, virtually all schools and libraries in the United States are now connected to the internet.⁹

While these federal programs have been an integral part in ensuring the widespread deployment of broadband for these anchor institutions, FCC Commissioner Jessica Rosenworcel emphasized in a recent speech the importance that local governments and administrators have had in implementing creative strategies to bridge the Homework Gap.¹⁰ Commissioner Rosenworcel applauded several

⁷ 47 C.F.R. § 54.504(e).

⁸ See Public Notice at 1.

⁹ See *Universal Service Program for Schools and Libraries*, FEDERAL COMMUNICATIONS COMMISSION, (Jan. 13, 2015), <https://www.fcc.gov/general/universal-service-program-schools-and-libraries-E-Rate>.

¹⁰ See *Rosenworcel Says Washington Should Support Local Internet Ideas*, COMM. DAILY (Sept. 21, 2016) (Pg. Unavail. Online), 2016 WLNR 29049252.

programs, including one initiated by the Coachella Valley School District in California that equipped the district's school buses with WiFi hotspots.¹¹ These hotspots allowed students, many of whom lacked internet access at home, to complete assignments during long commutes to and from school each day.¹² She also commended public library programs, such as the one implemented in Brooklyn, New York, that leases out devices equipped with WiFi hotspots for qualifying students during the school year at no cost.

These programs all seek to ensure that students not only have access to advanced technologies at school, but also in the home - an environment that most students will use to complete schoolwork, and that helps foster critical thinking, communication, collaboration, and creativity. Significantly, Commissioner Rosenworcel noted that these innovative projects did not come directly from Washington, but from local leaders committed to addressing the Homework Gap in their own communities.¹³

While the E-Rate program provides essential subsidies and guidance for schools and libraries seeking to bridge the digital divide, local school and library administrators are often in the best position to leverage institutional knowledge to devise solutions addressing the digital divide. These solutions can be uniquely tailored to incorporate the distinct aspects of their communities, such as socioeconomics, diversity, population, and geography.

For example, the Coachella Valley project was especially successful because many students spent significant time commuting by bus from their rural homes, allowing adequate time for students to complete their schoolwork.¹⁴ Such a project may not have had as great an impact in suburban areas where students spend significantly less time commuting to school. This greater understanding of the

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ See Carter Evans, *Calif. school district puts Wi-Fi on wheels to close digital divide*, CBS NEWS (Apr. 6, 2016), <http://www.cbsnews.com/news/california-coachella-valley-school-district-closes-digital-divide-with-wifi-on-school-buses>.

multiple factors that contribute to a community's digital divide problem can lead to more efficient solutions that meet the unique needs of a community.

Finally, the burdens accompanying the cost-allocation rule may discourage local efforts to bridge the digital divide by school districts that do not have the financial or administrative resources to achieve compliance. While this may not affect school districts who can afford these costs, rural, urban and financially challenged school districts that stand to gain the greatest impact from these programs may forego implementing innovative solutions due to the cost of compliance. In granting this Petition, the Commission can ease the burden on school districts that lack the resources to comply with the cost-allocation rule but want to initiate local programs to bridge the digital divide using E-Rate supported internet for appropriate off-campus use.

II. Boulder Valley's project to connect students in its low-income housing community to its fiber ring is consistent with the Commission's goal to bridge the Homework Gap for students who lack access to the internet at home.

The primary goal of the E-Rate program is to ensure that schools and libraries have affordable internet access, which the Commission recognizes is a crucial resource in preparing students for the digital economy.¹⁵ While most schools are now connected, the approximately 60 students living in the Boulder low-income housing development that is the subject of this Petition, currently experience a gap in access when they go home. Connecting these students will ensure that they are not hindered in their education and are on a level playing field with their peers. This will in turn relieve the burden these students currently experience in having to leave the home or use expensive data plans on their devices to complete their learning.

Additionally, BVSD's program can also relieve the burden on the parents of students living in the low-income housing community, who often have to make financial decisions that prioritize health care, transportation, or child care costs over internet access. As many parents of these students may fall at or below the poverty line, having broadband internet access at home for their school-age children can be one less factor to worry about in these important decisions.

¹⁵ *See, e.g.*, Statement of Commissioner Jessica Rosenworcel, 29 FCC Rcd. 15538, 15634.

Furthermore, ensuring that students living in Boulder’s low-income housing community have the internet access they need to complete schoolwork can potentially break the cycle of poverty. Students who have the tools they need to succeed are more likely to have the confidence to further their education, leading to better job opportunities and a lower likelihood of reliance on public assistance programs in the future.

Finally, partnerships with local agencies that are willing to provide supplemental funds to improve networks funded by the E-Rate program, such as Boulder Housing Partners in this instance, may lighten the burden on the Universal Service Fund.¹⁶ As the local housing authorities can bear the costs of expanding fiber networks to low-income housing communities, the utility and value of the networks can greatly increase while incurring no additional costs to the Universal Service Fund. This resourcefulness is consistent with the Commission’s goal to ensure Universal Service funds are managed as efficiently and with as little waste as possible, while also recognizing the value of local expertise and initiative.

* * *

BVSD’s Petition to waive the Commission’s cost allocation rule is consistent with the goals of the Commission’s E-Rate program, as it promotes support for digital learning, maximizes the cost-effectiveness of Universal Service funds, and would decrease the administrative burdens to school districts brought on by the cost-allocation requirements. Accordingly, waiving the cost allocation requirement in 47 C.F.R. § 54.504(e) under these circumstances meets the “good cause” requirement of 47 C.F.R. § 1.3. For these reasons, we respectfully ask the Commission to waive 47 C.F.R. 54.504(e) to allow schools and school districts to provide internet access to students at home in cases where those students do not already have internet access, and where such service would come at no additional cost to the Universal Service Fund.

¹⁶ Boulder Housing Partners is the local authority that provides affordable housing to low and moderate income people in the City of Boulder. <https://www.boulderhousing.org>.

Respectfully submitted,

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