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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

The Federal Communications Commission
Washington D.C. 20554

In the Matter of:	)	
	)	
Federal-State Joint Board on Universal Service (FCC 96-93)	)	CC Docket No. 96-45
	)	
	)	
	)	

SUMMARY

The Council of the Great City Schools, the coalition of some fifty of the nation's largest central city school districts, is pleased to submit comments pursuant to the Commission's November 18, 1996 Public Notice, and to endorse the recommended decision of the Federal-State Joint Board on Universal Service. The Council finds the recommended decision to be a balance and workable framework for achieving within a reasonable period of time the universal access and service for the nation's public schools which was intended in the Telecommunication Act of 1996.

1. THE IMPLEMENTATION OF THE JOINT BOARD'S RECOMMENDED DECISION IS WITHIN THE LEGAL AUTHORITY OF THE COMMISSION UNDER SECTION 254 OF THE TELECOMMUNICATIONS ACT OF 1996.

2. NO DOUBLE-STANDARD FOR ESTABLISHING LOW-INCOME ENROLLMENT IN PRIVATE AND PAROCHIAL SCHOOLS IS NECESSARY, SINCE THE USE OF FREE AND REDUCED PRICED LUNCH DATA AND "EQUATING METHODOLOGIES" AS THE MEASURE OF SCHOOL-BASED LOW-INCOME STATUS IS ALREADY IN OPERATIONAL USE THROUGHOUT THE COUNTRY UNDER EXISTING FEDERAL STATUTE AND REGULATION

3. THE UNIVERSAL ACCESS OF ALL RESIDENTS OF A JURISDICTIONAL AREA TO THE PUBLIC LIBRARY MAY JUSTIFY THE USE OF COMPOSITE AREAWIDE POVERTY RATES

4. HIGH COSTS IN THE CONTEXT OF TELECOMMUNICATIONS AND INFORMATION SERVICES SHOULD TAKE INTO ACCOUNT THE GEOGRAPHIC VARIATIONS IN THE COSTS OF GOODS AND SERVICES AND CERTAIN EXTRAORDINARY ADD-ON COSTS IN CERTAIN AREAS

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COMMENTS OF THE COUNCIL OF THE GREAT CITY SCHOOLS

The Council of the Great City Schools, the coalition of some fifty of the nation's largest central city school districts, is pleased to submit comments pursuant to the Commission's November 18, 1996 Public Notice, and to endorse the recommended decision of the Federal-State Joint Board on Universal Service. The Council finds the recommended decision to be a balance and workable framework for achieving within a reasonable period of time the universal access and service for the nation's public schools which was intended in the Telecommunication Act of 1996.

The Council will comment on a limited set of issues highlighted in the Public Notice as needing further information and comment, as well as underscoring a number of areas in the Joint Board's Recommended Decision which are particularly critical in the opinion of this organization to the effective attainment of universal service for schools and school children.

1. THE IMPLEMENTATION OF THE JOINT BOARD'S RECOMMENDED DECISION IS WITHIN THE LEGAL AUTHORITY OF THE COMMISSION UNDER SECTION 254 OF THE TELECOMMUNICATIONS ACT OF 1996.

The Joint Board's recommendations recognize the operational realities of providing true universal service, and in the Council's view are firmly within the legal authority of the Commission . Particularly in the area of "internal building connections", an essential component for serving the student and the library user -- the intended beneficiaries of the service, there appears no debate over legal authority. The issue raised in one dissenting statement to the Joint Board's decision focused on cost, and acknowledged the Commission's legal authority and discretion to provide universal service fund support in this critical area. "Harmonizing interstate and intrastate discounts" is another critical area in ensuring "affordable access", which is within the Commission's regulatory authority under the statute. The Joint Board's recommendation in paragraph 573 to require the establishment of intrastate discounts at least equal to the interstate discount methodology (except with an express waiver) recognizes that schools and libraries could be easily priced out of the market for telecommunication and information services purely by unaffordable intrastate pricing, thereby potentially negating the benefits of the interstate discounts and the universal access intent of the 1996 Act. Finally, the Council finds the Joint Board's recommendation of the broad range of telecommunication and information services including Internet for universal service fund coverage fully within the scope of the services definitions and the technically feasible and economically reasonable access directives in section 254 of the Act.

2. NO DOUBLE-STANDARD FOR ESTABLISHING LOW-INCOME ENROLLMENT IN PRIVATE AND PAROCHIAL SCHOOLS IS NECESSARY, SINCE THE USE OF FREE AND REDUCED PRICED LUNCH DATA AND "EQUATING METHODOLOGIES" AS THE MEASURE OF SCHOOL-BASED LOW-INCOME STATUS IS ALREADY IN OPERATIONAL USE THROUGHOUT THE COUNTRY UNDER EXISTING FEDERAL STATUTE AND REGULATION

While the Council readily acknowledged in our initial and additional filings with the Joint Board that every uniform data source for identifying low-income children has some inherent weaknesses, the use of the free and reduced price lunch program data is a reasonable and workable mechanism for determining low-income discounts for schools under the Act. Virtually every interest group, including

this organization, claims and can provide some documentation of undercount or omission from any data source or measure of poverty. For example, the Department of Commerce acknowledged the 1990 census undercount even as it opposed the litigation joined by the Great City Schools seeking an urban adjustment. In further example, a number of our city school systems avoid using welfare (AFDC) data due to an identified undercount of certain ethnic groups. In fact, federal education assistance laws tend to use both percentage of poverty and number in poverty to account for the needs in both rural areas with few numbers of poor children but high rates of poverty or in urban areas which in some instances have moderate to high rates of poverty but extremely high numbers of low-income children (similarly federal labor law often uses both rates numbers of unemployed).

Although the Council of the Great City Schools optimally would support a discount methodology allowing for the higher of the "rate or number in poverty" as found in both the Concentration Grants (section 1124) provision and the Targeted Assistance Grants (section 1125) provision of Title I of the Elementary and Secondary Education Act, the Council can endorse the Joint Board's methodology because it is workable, it is nationally understandable, it is uniform, and it is as fair or fairer on the whole as other measure of poverty.

The Council of the Great City Schools disputes any contention that the free and reduced price lunch index and child count is not a viable uniform measure of poverty for private and parochial schools. This viability is demonstrated in the establishment of school-level counts of low-income children for the allocation of federal ESEA Title I benefits, which underwent notice and comment rulemaking, was discussed in negotiated rulemaking, was the subject of dozens of meetings in the development of nonregulatory guidance, and is readily understandable by school administrators across the country. Although in the initial year of implementation the U.S. Department of Education created a "regulation of last resort" (34 CFR 200.28(a)(2)(iii)) for one year only for private schools to use in the absence of first year "child counts", the Council is not aware of any jurisdiction of substantial size or any jurisdiction at all which ultimately used this "last resort" methodology as opposed to some actual count of private school children in poverty. In fact, as of July of 1996 this non-poverty count regulation, referred to as "assumed proportionality", is no longer a legally acceptable method of determining school-level low-income numbers or rates.

The current operational methodologies used in federal education assistance under ESEA Title I are all based on an actual counts of low-income children in the private or parochial schools. Where a school does not have a particular head count under one measure of poverty, free and reduced priced lunch for example, it is allowed by regulation (34 CFR 200.28(a)(2)(i)(B)) to establish a mathematical "equating" of one measure of poverty to another. For example, it is often easiest to do a computer-sorted "address match" of student home addresses to the home addresses of individuals on the local welfare (AFDC) roles. Since the welfare poverty level, which varies from state to state, is always less than the low-income level for free and reduced price lunch eligibility, a mathematical equating of the AFDC level to the free and reduced price lunch level will yield a legitimate child count at the free and reduced price lunch poverty index. Private and parochial schools also can simply survey their students' families to identify income levels equivalent to free and reduced price lunch eligibility, irrespective of whether the particular school operates such a food program. This type of mathematical equating of differing data sources to produce an equivalent free and reduced price lunch poverty count can also resolve the recognized problem of low participation of secondary school children in the school lunch program. The current Title I system of "actual or equated counts" of low-income children is working well nationwide, though it does require some effort on the part of the school administration.

Since the Title I system is already operational, the argument of additional burden from any school or interest group appears questionable. The "data burden" argument seems often to be followed by a request for a waiver, or a proxy which does not count the actual number of poor children enrolled in a particular school -- in other words a loophole. The Commission should be particularly wary of proposals to use a public school's or public school district's poverty rate as a less-burdensome method of imputing the income level of private school students who reside in a particular neighborhood, zipcode, or school attendance zone. It stretches the bounds of logic to even consider that the low-income enrollment of a private school charging $2000, $5000, $8000 or more tuition would be the same proportion as the low-income enrollment of the school in which attendance area or zipcode the private school student may reside. For example, while the poverty rate at the public schools surrounding the U.S. Capitol building, where Senator's, Congressmen's, and Congressional staff's children often reside but not attend school. may exceed fifty (50%) percent, it would be unconscionable to claim that the children of such affluent people who choose to attend private schools rather than their neighborhood public schools have the same fifty percent-plus poverty rate.

The Council requests that the Commission be on guard for such "assumed proportionality" schemes designed to vastly overstate the low-income enrollment of private and parochial schools by using public school area or zipcode poverty rates, and thereby qualify for higher FCC discounts. Actual counts and equating methods for differing data are the only legitimate ways to determine poverty, and such methods are currently in use nationwide. No double-standard for private and parochial schools is needed or desirable.

Note: While the Council has addressed the operational issues of determining poverty in private and parochial schools within the context of the Joint Board's discount methodology, the Council has not completed our analysis, and therefore has not commented herein on the policy and constitutional issues surrounding the provision of a public subsidy to the infrastructure and service portfolio of private and sectarian schools.

3. THE UNIVERSAL ACCESS OF ALL RESIDENTS IN A JURISDICTIONAL AREA TO THE PUBLIC LIBRARY MAY JUSTIFY THE USE OF COMPOSITE AREAWIDE POVERTY RATES

Public libraries serve all residents of a jurisdictional area without exclusionary criteria or fees, and therefore might legitimately use the entire jurisdiction's composite poverty rate or combined school zone poverty rates. This is distinguished from private and parochial schools whose economic, religious, educational level or other criteria will exclude substantial numbers of the residents of a neighborhood, school attendance zone or other jurisdictional area from attending. Such private school exclusionary criteria and costs, therefore, should disqualify such an entity from using the entire zone or area's overall poverty rate as an alternative to an actual count of low-income children.

4. HIGH COSTS IN THE CONTEXT OF TELECOMMUNICATIONS AND INFORMATION SERVICES SHOULD TAKE INTO ACCOUNT THE GEOGRAPHIC VARIATIONS IN THE COSTS OF GOODS AND SERVICES AND CERTAIN EXTRAORDINARY ADD-ON COSTS IN CERTAIN AREAS

As schools and libraries procure telecommunications and information technology infrastructure and services, the costs will vary with the costs of goods and services in the particular geographic area. Clearly expenditures for wages and goods will differ in a New York City or in the Pribilof Islands off the Alaskan coast in comparison to any neighboring jurisdictions. Therefore, the Council recommends that the Commission factor into its high cost methodology the variations in wage rates and the variations in market basket costs among geographic areas.

A further cost element for which the Council has yet to find an index is the addition costs of security. If a school was to place a satellite dish on its premise in a high crime area, there would be a concomitant cost for fencing and protecting that investment, not to mention insuring it. The Council wishes to raise this cost issue surrounding technology equipment and infrastructure, though we have yet to develop a recommended solution.

The Council of the Great City Schools appreciates the consideration of our comments and would be pleased to answer any questions or provide any clarifications. We can be reached at 202-393-2427.

Respectfully submitted on December 19, 1996,

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