



May 5, 2021

The Honorable Jessica Rosenworcel, Acting Chairman
The Honorable Brendan Carr, Commissioner
The Honorable Geoffrey Starks, Commissioner
The Honorable Nathan Simington, Commissioner
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

Addressing the Homework Gap through the E-Rate Program, WC Docket No. 21-31

Modernizing the E-rate Program for Schools and Libraries -- WC Docket No. 13-184 ccNo4.1 1No4-1.1seNo4.1r

from May 1, 2021 through June 30, 2022 with any remaining funding. This approach tips the balance between future expenditures in favor of retrospective payments, without an underlying rationale. We have concerns with two different aspects to this approach.

Initially, the start date for the retrospective period should be modified to **March 1, 2020** when the pandemic forced schools and libraries to close and required them to begin making emergency purchases of devices and Internet access for their students and patrons so they could continue learning remotely.¹ The draft Order states that the July 2020 start date is more administratively feasible than an earlier date since schools may already have finalized their accounting for the year ending June 2020. Regardless of when a school or library budget year has closed, they can and do still accept reimbursements for this period, no differently than they do currently during the typical E-rate funding cycle when BEAR payments are remitted following the close of the fiscal year. Further, during these early months of the pandemic, other sources of federal relief funds were not readily available to defray these costs, leaving schools and libraries to make these purchases from already-thin local budgets.²

Further, there should not be a prioritization that reimburses past expenditures over future expenditures. Schools and libraries should be afforded maximum flexibility in determining which of their qualifying expenses should be submitted for reimbursement – prospective, retrospective or both - subject to the required certifications.³ The draft Order appropriately recognizes the importance of affording schools and libraries the **flexibility** to make appropriate choices about their needs.⁴ This same principle should be applied here and widen the covered period of expenditures. The need for prospective services and connected devices may be just as urgent as the need for reimbursement of past expenditures. With the upcoming school year just a few months away

We believe that a 45-day filing period as suggested in the draft Order would continue to be appropriate for our proposed single application filing window. Given the expected lead time that will be needed to program the online filing system, we surmise and encourage the opening of the filing window by mid-June and the close by the end of July. After expedited reviews, applicants could expect to receive notice of funding awards beginning in August – just in time for schools to reopen.

Uncertainty about how much funding will be requested to meet the needs of students, staff and library patrons, as hinted at in the draft Order, should not drive the public policy setting the rules for the ECF application process.⁵ Rather, the program rules should be structured to accommodate the possibility that more funding requests will be submitted than there is available funding, and to establish a fair process for distributing funds should this situation occur. While Congress established the goal of covering 100% of reasonable eligible costs, just as in the traditional E-rate program, the Commission should develop a fair mechanism for allocation of funds in case the funds fall short as we explain in our next recommendation.

Second, the risk of oversubscription should be mitigated by adopting a policy of an across-the board percentage pro-ratio if necessary.

Concerns about over-subscription, we submit, should be addressed by adopting a fair and equitable manner of allocating the funding should demand exceed available funds, and not by restricting the reimbursement period only back to July 1, 2020, which we believe will serve to artificially limit demand. Each member organization of the Remote Learning Coalition initially supported some manner of applicant-level budgets as the recommended manner of fairly allocating funds and managing demand, but this concept is not favored in the draft Order. Instead, the draft Order (¶ 87) proposes that should funding be unable to cover all requests, funding would be directed initially to the highest discount applicants until funds were depleted; and, if an entire discount band could not be funded, the applicants with the highest NSLP percentages in that band would be funded first. This approach would enable the highest discount applicants to be fully funded, and th

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All applicants with a need for reimbursement of eligible ECF expenses would be treated equally and would share equally in a reduction of their requests if necessary and at the same time receive an equal share of their requested funding.

device may not be adequate to enable the student to engage in remote learning. It is also important to recognize that any applicant's attestation of households lacking access is just a "snapshot in time."

Further, there should be a **presumption of unmet need** for a connected device, Internet access or both when the school pays for or provides

campus usage restriction in the E-rate program.¹¹

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