

Before the Federal Communications Commission

Washington DC 20554

In the Matter of)
)
Emergency Connectivity Fund for Educational) WC Docket No. 21-93
Connections and Devices to Address the)
Homework Gap During the Pandemic)

Comments of the Education & Libraries Networks Coalition (EdLiNC)

I. INTRODUCTION

The Education and Library Networks Coalition (EdLiNC)¹, a group comprised of the leading public and private education associations and the American Library Association that was formed in 1995 to advocate for the interests of schools and libraries in the Telecommunications Act of 1996, is pleased to provide these comments to the Wireline Competition Bureau’s Public Notice (Notice) on the Emergency Connectivity Fund for Educational Connections and Devices to Address the Homework Gap During the Pandemic². Since the enactment of the E-Rate as part of the Telecommunications Act of 1996, EdLiNC has pursued a mission of promoting and improving the E-Rate to fulfill its mission of accelerating the deployment of advanced telecommunications and information services in schools and libraries, and has filed in every Commission rulemaking related to the program. EdLiNC also filed comments in the Commission’s 2016 Lifeline Modernization proceeding, focusing our proposals on elements of this rulemaking related to bridging the homework gap and on the Bureau’s Public Notice from February 2021 that sought comment on petitions for emergency relief to allow the use of E-Rate funds to support remote learning during the COVID-19 pandemic.

As is reflected in our comments below, EdLiNC believes that the Commission should: 1) distribute support from the Emergency Connectivity Fund via an application based program where school and library applicants submit eligible service and equipment requests to support connecting to the Internet

¹ See Appendix A for a complete list of EdLiNC members.

² *Public Notice*, WC Docket No. 21-93 (2021) (Notice).

those students and patrons that lack any or sufficient Internet access in their homes or dwelling places, a device suitable for remote learning, or both; 2) if demand outstrips available funding, use the existing E-Rate discount matrix to rank funding requests, with applicants possessing the highest E-Rate discount rate receiving priority; 3) consider additional measures, including increasing rural schools and library E-Rate discount rates for the narrow purpose of ranking funding requests; 4) adopt program metrics and goals focused on progress towards ensuring that all students and educators are: a) able to connect at sufficient speeds to the Internet from their homes or temporary dwelling places to engage in remote learning; and b) possess devices appropriate for educational and remote learning purposes; 5) allow schools, libraries, states, and consortia of schools and libraries eligible for support under the E-Rate program to be eligible to receive funding from the Emergency Connectivity Fund and not expand eligibility to other non-profit entities that serve homeless, transitory and migrant students; 6) allow the Emergency Connectivity Fund to only support: eligible services and equipment “that are needed to provide the connectivity required to enable and support remote learning for students, school staff, and library patrons,” and devices suitable for remote learning and video conferencing platforms; 7) establish a per device cap of \$750 for eligible connected devices; 8) allow applicants to purchase additional devices to account for damage and breakage and permit uninterrupted learning; 9) not provide reimbursements for eligible equipment and services back to January 27, 2020 but provide reimbursements beginning on July 1, 2020; 10) waive the competitive bidding process rules but not establish an alternative streamlined competitive bidding process; and 11) allow eligible applicants to use the same reimbursement processes available under the E-Rate program for the Emergency Connectivity Fund.

II. EdLiNC believes that the Commission should distribute support from the Emergency Connectivity Fund via an application based program where school and library applicants submit eligible service and equipment requests to support connecting to the Internet those students and patrons that lacked, beginning on July 1, 2020, any or sufficient Internet access in their homes or dwelling places, a device suitable for remote learning, or both. If demand outstrips available funding, EdLiNC supports using the existing E-Rate discount matrix to rank funding requests, with applicants possessing the highest E-Rate discount rate receiving priority. In order to ensure equitable dissemination of funds, EdLiNC recommends that the Commission consider additional measures, including increasing rural schools and library E-Rate discount rates for the narrow purpose of ranking funding requests.

We begin our filing with an examination of what we consider the threshold question of this Notice: how should the Commission distribute the \$7.171 billion available to help close the homework gap. While we agree that speed and efficiency are important considerations in this conversation, we believe that fairness and equity must be what drives how the Commission disburses these funds. The intent of the legislation establishing these funds is, quite simply, to connect the unconnected and the distribution mechanism must be tailored towards satisfying that intent. Additionally, as we propose below, EdLiNC believes that the goals on which this program should be judged will be how many unconnected students and educators have been connected -- in each school district, each state and nationally -- as a result of the deployment of this investment.

Therefore, we agree with the general outline of the Commission's proposal to: open an application window for a period of time; close that window and determine the level of demand for support; and, in the event of insufficient funding, use the E-Rate's discount matrix, which is based on federal lunch program numbers with an adjustment upwards for rural location, to prioritize funding requests.³ We believe applicants should only apply for what they need to support unconnected students, plus a little more for breakage, and certify as to the number of students who will receive devices and/or home Internet access service. While this process cannot and will not be perfect, we believe it gets closest to the goal of getting devices and services to those who actually need them and have the fewest financial resources to acquire them.

One obvious issue with this application process is that it could lead to large urban areas receiving the vast majority of the funding as they have the greatest numbers and will receive priority because they have the highest E-Rate discount rates. We are sensitive to how this could squeeze out rural schools and libraries that serve smaller populations of lower income families but lack the highest E-Rate discount rates. To ameliorate this problem, we suggest that the Commission consider adding additional percentage points to the E-Rate discount rates for rural schools and libraries for prioritization purposes thereby allowing them to improve their chances of gaining access to Emergency Connectivity Fund support. The current E-Rate discount matrix already includes a 5% to 10% discount percentage increase for rurals in both Category I and Category II. Adding another 5% to rural school and library E-Rate

³ Notice at pp. 12-13.

discount rates might be sufficient to ensure a more equal geographic spread of Emergency Connectivity Fund dollars.

EdLiNC is aware that some groups support creating a per student cap, modified further by the E-Rate discount matrix, as a way to distribute the funds quickly and efficiently. While such proposals have merit in terms of speed, we believe that they fall short of the standard of fair and equitable distribution of the Emergency Connectivity Fund's limited resources embraced by EdLiNC. Rather than spreading out the fund's dollars so that all schools and libraries receive an estimated level of funding that may or may not meet the needs of all of their unconnected students or patrons, we believe it better to have a more targeted disbursement process where schools and libraries can apply for and receive what they actually need to connect their actually unconnected students.

III. EdLiNC believes that the Commission should adopt program metrics and goals focused on progress towards ensuring that all students and educators are: 1) able to connect to the Internet from their homes or temporary dwelling places to engage in remote learning; and 2) possess devices appropriate for educational and remote learning purposes.

The Notice seeks comment on establishing metrics and goals for the Emergency Connectivity Fund, asking:

“(H)ow to best measure the Commission’s and USAC’s performance in efficiently and effectively administering this Fund. Should the Commission adopt specific broadband adoption goals for students, school staff, and library patrons? If so, what should those goals be? Should the Commission adopt specific goals for ensuring students, school staff, and library patrons have end user devices for connecting to the internet? If so, what should those goals be? What data is available that could help establish a baseline against which the Commission can measure the impact of the Emergency Connectivity Fund? Do schools and libraries conduct assessments of their students’, school staffs’, and library patrons’ need for eligible equipment and services? If so, how have those assessments informed schools’ and libraries’ purchasing decisions during the pandemic? What information should the Commission direct USAC to collect to enable the Commission to evaluate progress towards meeting its goals? Should the Commission adopt specific performance goals and measures with respect to the administration of the Fund as it has done for the E-Rate program? If so, what should those performance goals be?”⁴

EdLiNC believes it critical that the Commission establish strong goals for the program that closely track Congress’ legislative intent to ensure that all students and educators can access the Internet from their

⁴ Notice at p. 3.

homes and temporary dwelling places and possess devices appropriate for educational use and remote learning. Towards that end, we support the Commission collecting from eligible program applicants, as part of their initial application for program support, baseline data, if known or easily ascertainable by a quick survey, on the number of students or library patrons that are: 1) have no Internet connection in their homes or temporary dwelling places; 2) have Internet connectivity in their homes or temporary dwelling places that is inadequate for remote learning generally and videoconferencing specifically; and 3) have no devices that are adequate for educational purposes and remote learning, with cell phones not considered an acceptable device for those purposes. We suggest the Commission measure program success on a state by state and/or district by district basis using data provided by program applicants and on an aggregate national basis using data provided by Common Sense Media in its most recent report. Regarding the latter, as of December 2020, Common Sense Media estimates that between 9 and 12 million K-12 students still lack an adequate Internet connection in their homes and that between 4 and 6 million K-12 students lack access to an adequate e-learning device.⁵

IV. EdLiNC agrees with the Commission that schools, libraries, states, and consortia of schools and libraries eligible for support under the E-Rate program be eligible to receive funding from the Emergency Connectivity Fund. Additionally, while we believe it important that those entities seek to ensure that homeless, transitory and migrant students gain access to remote learning from their homes or temporary dwelling places, we do not support expanding Emergency Connectivity Fund to other non-profit entities that serve those students.

The Notice seeks comment on the Commission’s tentative conclusion that, based on the statute, the entities currently eligible to receive support under the E-Rate program will be eligible to receive support under the Emergency Connectivity Fund. The Notice also seeks comment on “whether there are other entities, not already eligible under the E- Rate program, that the Commission should make eligible for support through the Emergency Connectivity Fund.”⁶ Later in the Notice, the Commission seeks comment on service locations: “We expect that most students, school staff, and library patrons are engaged in remote learning from their homes during the pandemic and thus need connectivity at home.

⁵ Common Sense Media, “Looking Back, Looking Forward: What It Will Take to Permanently Close the K–12 Digital Divide,” (January 2021), p. 12 (https://www.common Sense Media.org/sites/default/files/uploads/pdfs/final_-_what_it_will_take_to_permanently_close_the_k-12_digital_divide_vfeb3.pdf)

⁶ Notice at p. 4.

However, we recognize that some students, school staff, and library patrons are unhoused or otherwise unable to engage in remote learning from home.”⁷ When read together, these parts of the Notice raise the question of whether the Emergency Connectivity Fund should support connecting entities like homeless shelters that temporarily house homeless, transitory and migrant students.

As an initial matter, EdLiNC supports the Commission’s reading of the statute that E-Rate eligible entities are the entities Congress intended to be eligible for Emergency Connectivity Fund support. Regarding the question of whether there are other entities that the Commission should consider as eligible for support, EdLiNC believes that a plain reading of the statute evidences no suggestion that the Commission has the authority to expand eligibility for these limited funds to other entities. Additionally, we note further that schools and libraries are empowered to and do serve many students who lack permanent homes, including homeless, transitory and migrant students, and have and will continue to fulfill that role in distributing devices and Internet access services where possible.

We spent significant time considering how best to ensure connectivity for homeless and housing-insecure students, a population that the Emergency Connectivity Fund surely intends to help. Specifically, we considered whether expanding access to the Emergency Connectivity Fund to include homeless centers is the best way to reach homeless and housing insecure children. However, we noted that homeless students often bounce between short term, temporary shelters, motels serving as emergency housing, and the homes of friends and families. In fact, the most recent data from the McKinney-Vento program showed that less than 12% of homeless children were staying in shelters when they were identified. Further, the pandemic is likely to have decreased shelter use by families even more due to new restrictions and increased fear of transmission. Thus, the very mobility of homeless, transitory and migrant students suggests that allowing homeless shelters to be eligible recipients of limited Emergency Connectivity Fund dollars may not be the best way to provide service to homeless children who only stay in a given shelter for a few days a year. By contrast, schools have a longer and more permanent connection to a homeless student and are well-situated to provide them with access to remote learning. Based on these considerations, we cannot support expanding this program’s list of eligible entities beyond entities already eligible for the E-Rate program. In their work to ensure that homeless students have access to the internet, schools absolutely can and should coordinate with local

⁷ Notice at p. 8.

homeless centers both in terms of knowing where students reside even temporarily and what their Internet needs are.

V. EdLiNC agrees with the Commission that the Emergency Connectivity Fund should only support eligible services and equipment “that are needed to provide the connectivity required to enable and support remote learning for students, school staff, and library patrons.” We believe further that the program should only support devices suitable for remote learning and video conferencing platforms and that the Commission should provide applicants with guidance to help them make informed purchasing decisions that comport with program goals and requirements. We also support the Commission establishing a per device cap of \$750 for eligible connected devices to ensure that the fund has sufficient resources for all. Lastly, EdLiNC supports the Commission allowing applicants to purchase additional devices to account for damage and breakage and permit uninterrupted learning.

EdLiNC believes that the central goal driving the establishment of the Emergency Connectivity Fund was to redress the homework gap confronted by millions of students and educators who lack Internet access in their homes or temporary dwelling places, who lack devices suitable for education and remote learning, or both. Quite clearly, this program was not intended to support infrastructure upgrades at school and library buildings and facilities themselves as that support can and does flow already from the existing and separate E-Rate program. Thus, we agree with the Commission’s interpretation of the statute that “dark fiber and the construction of new networks, including the construction of self-provisioned networks” would not be eligible for support based on “the underlying assumption that the construction of new networks is not supported by the statutory text enumerating eligible equipment in section 7402 of the American Rescue Plan.”⁸ Category I of the E-Rate already provides schools and libraries with support for those purposes.

With all of that said, we are aware that some school districts are pioneering innovative approaches to connecting students in their homes with technologies that do not require the construction of new networks. While we make no recommendation on whether the Commission can and should deem such technology eligible for support from the Emergency Connectivity Fund, we caution that the funds available to applicants are limited and that any solution must be cost-effective and assist the program in

⁸ Notice at p. 7.

making progress towards the goal we proposed earlier: ensuring that all students and educators can access the Internet from their homes and temporary dwelling places and possess devices appropriate for educational use and remote learning.

As noted above, EdLiNC feels that it is critical that the Commission erect some cost guardrails in accordance with the statute permitting it to determine reasonable costs for eligible equipment. The range of costs of connected devices varies greatly and we desire that device purchases remain within reasonable bounds so that sufficient dollars exist to provide support to as many schools and libraries as possible. Therefore, we recommend that the Commission consider allowing applicants to request reimbursement from the Emergency Connection Fund of no more than \$750 per connected device, including laptops and tablets. Schools and libraries are not prohibited from purchasing more expensive devices but would have to use other funds to pay for costs about the \$750 per connected device limit.

On a related matter, EdLiNC is also concerned that schools and libraries purchase devices through program funds that are suitable for remote learning. The Notice itself identifies this issue, stating: “We propose that a connected device supported through the Emergency Connectivity Fund be able to support video conferencing platforms and other software necessary to ensure full participation in remote learning activities. In this regard, we specifically propose not to include mobile phones (i.e., smartphones) as eligible connected devices because such devices do not sufficiently allow students, school staff, and library patrons to meaningfully participate in remote learning activities and thus do not qualify as “similar” devices under American Rescue Plan.”⁹

EdLiNC agrees that mobile phones are not adequate for remote learning needs and are inadequate generally for video conferencing platforms and thus should be ineligible for Emergency Connectivity Fund support. This standard should also apply to larger devices that lack the capacity to use video conferencing, a problem that the Consortium for School Networking has identified in its recent research. Specifically, the Emergency Connectivity Fund rules should include guidance to ensure that households are equipped with a sufficient, modern router to support the number of users and devices in the home. Older Wi-Fi standards, such as 802.11g or 802.11n, should not be supported by the program (minimum 802.11ac and preferably 802.11ax). The program rules should also provide guidance to districts about the minimum capabilities of devices to be supported the program, including a focus on: CPU type

⁹ Notice at pp. 5-6.

(preferably Intel i3 or equivalent), amount of memory (preferably 4 GB or better); internal Wi-Fi connection (preferably 802.11ax), and integrated webcam, headphone port.

To assist schools and libraries in purchasing devices that meet the remote learning needs of students and educators, we recommend that the Commission provide them guidance that assists them in making purchasing decisions that comport with the intent of the program.

In response to the Notice's questions regarding replacing broken equipment¹⁰, EdLiNC supports the Commission allowing schools and libraries to purchase additional devices and equipment to allow for the rapid replacement of damaged or broken devices and equipment and permit uninterrupted learning. Our research indicates that many school districts that operate large technology programs routinely buy between 5% and 10% more devices than needed to account for breakage. For example, Hinsdale High School District 86 purchases between 8% and 10% more devices than students while East Syracuse Minoa Central Schools in New York and Green Bay School District in Wisconsin both purchase an additional 5% of spare devices for their programs. In addition, the Verizon VILS corporate social responsibility initiative that supports hundreds of schools around technology efforts allows up to 5% for spare devices. The State of Maine's 1:1 laptop program reportedly purchases about 7% more than students for what it calls its buffer pool.

VI. EdLiNC does not support providing reimbursements for eligible equipment and services back to January 27, 2020; instead it supports providing these reimbursements beginning on July 1, 2020.

Beyond our general support for the Commission's proposed structure of the application process, EdLiNC does have significant concern with one aspect: allowing for a reimbursement period that begins January 27, 2020¹¹. EdLiNC is deeply concerned that allowing reimbursements dating back more than one year could lead to the depletion of this \$7.171 billion at a rapid pace, possibly creating a situation where it only pays for equipment and services that have already been purchased and leaving no funds to support students and educators who remain unconnected right now. In our previous comments, EdLiNC proposed that, rather than allowing reimbursements from the beginning of the COVID-19 pandemic and paying for services and equipment purchased for and during the last school year, the Commission elect

¹⁰ Notice at p. 9.

¹¹ Notice at p. 12.

to only reimburse for services and equipment purchased from July 1, 2020 onwards. We believe that date is a reasonable middle ground as it represents the beginning of the new E-Rate program year and serves as a reasonable proxy for the beginning of the 2020-2021 school year. If the Commission proceeds with its proposal to reimburse all the way back to January of last year, this program may well not move the needle in terms of providing devices and home Internet access to students unconnected and will fail to substantially meet the goal of continuing progress towards the homework gap as it stands today.

VII. EdLiNC supports waiving the competitive bidding process rules but does not support the Commission’s proposed alternative streamlined competitive bidding process.

The Notice proposes “to allow eligible schools and libraries to seek reimbursement for the cost of eligible equipment and services purchased without having conducted a Commission-mandated competitive bidding process for purposes of the Emergency Connectivity Fund. Instead, we propose that the Commission require schools and libraries seeking funding from the Emergency Connectivity Fund to certify that they have complied with all applicable state, Tribal, or local procurement requirements with respect to the contracts they used to purchase eligible equipment and services.”¹² We agree. We reiterate our argument from our previous filing that the Commission should waive the E-Rate Competitive Bidding and Bid Evaluation Rules, which require all E-Rate applicants to undergo a time-consuming and rigorous E-Rate service provider bidding process, including a 28-day Form 470 posting period, over and above the policies and procedures required of them by their state and local procurement rules. Like the Commission, EdLiNC supports applicants reverting to state and local procurement rules, which are sufficiently rigorous to prevent waste, fraud and abuse in the program and ensure that this fund’s precious resources are not misspent. However, we can not support the concept of a streamlined competitive bidding process for “eligible schools and libraries that have not yet purchased or entered into contracts to purchase eligible equipment and/or services.”¹³ We believe that state and local procurement requirements should suffice.

VIII. EdLiNC supports allowing eligible applicants to use the same reimbursement processes available under the E-Rate program for the Emergency Connectivity Fund.

¹² Notice at p. 10.

¹³ Notice at p. 11.

The Notice proposes “requiring applicants (rather than service providers) to submit invoices detailing the items purchased to receive reimbursement.”¹⁴ EdLiNC urges the Commission to ensure maximum flexibility by retaining the option for both vendors and schools and libraries to submit invoices detailing the items purchased to receive reimbursement rather than mandate applicant submitted reimbursement. Schools have long had the option in the traditional E-Rate program to have their vendor submit invoices via the FCC Form 474 (Service Provider Invoice) or the submit the form themselves via the FCC 472 (Billed Entity Applicant Reimbursement or BEAR Form). These options are familiar and have worked for the E-Rate community for many years. In this time of upheaval and change, we believe both of these well-tested options should remain available in the Emergency Connectivity Fund as well.

IX. Conclusion

EdLiNC appreciates the opportunity afforded by this Notice to weigh-in on the Emergency Connectivity Fund Emergency Connectivity Fund for Educational Connections and Devices to Address the Homework Gap During the Pandemic. We look forward to working with you to bridge the Homework Gap.

Appendix A

EdLiNC Member Organizations:

AASA: The School Superintendents Association (AASA)

American Federation of School Administrators (AFSA)

American Federation of Teachers (AFT)

American Library Association (ALA)

Association of Educational Service Agencies (AESAs)

Association of Latino Administrators and Superintendents (ALAS)

¹⁴ Notice at 13.

Association of School Business Officials International (ASBO)
Council of Chief State School Officers (CCSSO)
International Society for Technology in Education (ISTE)
National Association of Elementary School Principals (NAESP)
National Association of Independent Schools (NAIS)
National Association of Secondary School Principals (NASSP)
National Catholic Educational Association (NCEA)
National Education Association (NEA)
National PTA (PTA)
National Rural Education Advocacy Coalition (NREAC)
National Rural Education Association (NREA)