



March 17, 2021

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
45 L Street NE
Washington, DC 20554

Re: *Addressing the Homework Gap Through the E-Rate Program*
WC Docket No. 21-31
Emergency Connectivity Fund for Educational Connections and Devices to Address the Homework Gap During the Pandemic
WC Docket No. 21-93
Promoting Telehealth in Rural America
WC Docket No. 17-310

Dear Ms. Dortch:

On March 15, 2021, Michael Calabrese and Amir Nasr of New America’s Open Technology Institute (“OTI”) and John Windhausen of the Schools, Health & Libraries Broadband (SHLB) Coalition spoke by phone with Austin Bonner, Legal Advisor for Wireline and Public Safety to Commissioner Geoffrey Starks, about the above-captioned proceedings.¹ SHLB and OTI reiterated the importance of their petitions to increase flexibility and funding support to schools and libraries to provide high-speed broadband to students and library patrons lacking service at home to facilitate remote learning during the COVID-19 pandemic.² On March 16, Michael Calabrese and John Windhausen spoke again by phone with Austin Bonner to discuss the same proceeding.

¹ Wireline Competition Bureau Seeks Comment on Petitions for Emergency Relief to Allow the Use of E-Rate Funds to Support Remote Learning During the COVID-19 Pandemic, WC Docket No. 21-31 (Rel. Feb. 1, 2021), <https://docs.fcc.gov/public/attachments/DA-21-98A1.pdf> (“Public Notice”); Wireline Competition Bureau Seeks Comment on Emergency Connectivity Fund for Educational Connections and Devices to Address the Homework Gap During the Pandemic, WC Docket No. 21-93 (Rel. March 16, 2021), <https://docs.fcc.gov/public/attachments/DA-21-317A1.pdf> (“Emergency Connectivity Fund Public Notice”).

² Petition for Expedited Declaratory Ruling and Waivers filed by the Schools, Health & Libraries Broadband Coalition, et al., WC Docket No. 13-184 (filed Jan. 26, 2021), <https://www.fcc.gov/ecfs/filing/101260036427898> (“SHLB, et al. Petition”).

We began by reiterating the importance of the petition filed by SHLB, *et al.* and by others to increase the funding and flexibility that schools and libraries continue to urgently need to facilitate remote learning by providing high-speed broadband connections to students and library patrons lacking adequate service at home. Some degree of remote and/or hybrid learning is likely to continue into the fall and beyond across the country.³

We further noted that the recently-passed American Rescue Plan Act of 2021, H.R.1319, gives the Commission the broad discretion needed to support a wide variety of technological solutions to connecting students off campus for remote learning and to bridge the homework gap.⁴ The SHLB *et al.*, Colorado and Nevada petitions at issue in this proceeding gave the Commission a strong head start to consider the mechanics of implementing an emergency expansion of E-Rate support for remote learning, which will be greatly enhanced thanks to the \$7.2 billion appropriation for this purpose.

OTI and SHLB strongly believe that the request in the SHLB *et al.* Petition to waive cost allocation rules is now even more important to ensure that the \$7.2 billion in appropriated funds for remote learning facilitates the most cost effective solutions that meet local circumstances without being hamstrung or burdened by current cost allocation rules that did not anticipate either the pandemic emergency or E-Rate support for remote learning. School districts should not be required, as they are now, to purchase redundant fiber backhaul to carry student data traffic between the school's network and students and teachers engaged in remote learning.

In the context of the pandemic emergency and for the educational purpose of closing the homework gap, a failure to waive the current cost allocation rules would be wasteful and detrimental to the goals evinced by both Congress and the Commission. Facilitating remote learning and closing the homework gap should be the paramount concern. The school districts interviewed by OTI for its recent Report profiling innovative solutions to the homework gap all mentioned that the cost allocation rule was a major deterrent and an extra cost to providing students with home connectivity.⁵ As the Council of the Great City Schools has opined:

Flexibility should extend not just to the eligible services and equipment list, but also to program requirements that obstruct the goals the Commission seeks and students need. At the top of the Council's list of needed flexibilities is the requirement to cost-allocate out ineligible costs such as off-campus private LTE networks. The program rules that limit eligibility for off-premises use and require cost-allocation have severely constrained the ability of school districts to expand

³ Carolyn Thompson, "Schools plan for potential of remote learning into the fall," ABC News (Feb. 8, 2021), <https://abcnews.go.com/Health/wireStory/schools-plan-potential-remote-learning-fall-75752218>.

⁴ American Rescue Plan Act, 2021, H.R. 1319, 117th Cong., tit. VII, § 7402 (2021) (enacted), available at <https://www.congress.gov/bill/117th-congress/house-bill/1319/text> ("American Rescue Plan Act").

⁵ Michael Calabrese and Amir Nasr, "The Online Learning Equity Gap: Innovative Solutions to Connect All Students at Home," New America's Open Technology Institute Report (Nov. 17, 2020), <https://www.newamerica.org/oti/reports/online-learning-equity-gap/> ("OTI E-Rate Report").

wireless access off campus. These limitations affected school districts' abilities to address the homework gap before the pandemic, and numerous commenters noted that the rules have curtailed more widespread participation in remote learning since the COVID-19 emergency forced almost every school in the nation to close.⁶

Waiving the cost allocation rule will empower innovative school districts that decide they can best meet the needs of at least a portion of their students without adequate internet access at home by extending their existing E-Rate-supported networks. Schools and libraries are unlikely to try innovative methods to close the homework gap if they fear loss of E-Rate funds due to cost allocation restrictions and uncertainties.

Further, OTI and SHLB emphasized that both the Commission's allocation of additional E-Rate funding and the implementation rules for the appropriated funding should be technology neutral and include any advanced telecommunications technology or service that best meets the local needs of students for internet connections to learn away from school. The Commission should err on the side of being technology neutral. Most importantly, the Commission should trust local school and library officials to determine what combination of technologies and services best meets the learning needs of their students and teachers. As ENA Services, LLC, argued in its reply comments:

... [T]he Commission has always declined to mandate specific technologies, maintaining that schools and libraries are in the best position to understand their own connectivity needs and make their own decisions accordingly.⁷

Eligible equipment and services should include not only modems and hotspots, but also the full range of technologies such as mobile and fixed wireless access points and routers, and other equipment using TV White Spaces, fixed wireless services, private LTE networks powered by Citizens Broadband Radio Service spectrum in the 3.5 GHz band—such as those recently adopted by school districts in Maryland, Texas, and California⁸—and many other innovative solutions to the homework gap. Local anchor institutions should have the freedom to identify the services and equipment that are most effective to connecting students and library patrons without internet access at home.

As OTI detailed in a report last November about the homework gap and the E-Rate program's potential to bridge this gap during the pandemic, one of the biggest barriers to schools connecting students for remote learning in the most cost effective manner are cost allocation and other restrictions.⁹ For example, the CTO of the Council Bluffs Community School District in

⁶ Reply Comments of the Council of the Great City Schools at 3. Unless otherwise noted, all Reply Comments referenced herein were filed in this docket on February 23, 2021.

⁷ Reply Comments of ENA Services, LLC at 2.

⁸ Michael Calabrese and Amir Nasr, "The Online Learning Equity Gap: Innovative Solutions to Connect All Students at Home," New America's Open Technology Institute Report (Nov. 17, 2020), <https://www.newamerica.org/oti/reports/online-learning-equity-gap/> ("OTI E-Rate Report").

⁹ *Ibid.*

Iowa, David Fringer, told OTI that “the lack of flexibility in using Category Two funding both encourages unnecessary internal upgrades and deters other initiatives such as Wi-Fi connectivity to needy students at home. ‘Now what districts need is an option to use Cat Two to extend their networks, such as for Wi-Fi extensions of the school network,’ Fringer said.”¹⁰

Similarly, officials of the Lindsay Unified School District, a rural farmworker community in California’s Central Valley told OTI that the Commission “effectively penalizes Lindsay for relying on the district’s fiber backhaul to give students direct access to the school’s filtered network at home. According to Lindsay officials, the district is forced to throttle the bandwidth available to students at home to reduce cost, even though the school itself pays for more bandwidth than it needs.”¹¹

The profiles of innovative school districts in OTI’s report and in the SHLB *et al.* Petition underscore the need to immediately grant the cost allocation waivers regardless of whether E-Rate funding is increased and regardless of the rules for distributing the newly-appropriated funds. The waivers would provide immediate relief and leeway for schools and libraries to choose the mix of broadband technologies, equipment and services that best meet local circumstances.

For example, in Lindsay, as well as in Fontana, California (where the school district is the anchor tenant for a private LTE network in partnership with Crown Castle Fiber), the district superintendents told OTI that one of their challenges (and reasons for deploying dedicated school networks) is that in outlying parts of their districts, there are no cable or cellular signals strong enough to support the streaming video necessary for remote learning.¹² Similarly, SHLB Coalition members seek the ability to put up antennas on school rooftops to connect to backhaul using E-Rate fiber to provide service to students’ homes—an issue not addressed in the legislation, but which *is* requested in the petitions.

Rural Lindsay, CA, presents a cautionary tale about an over-reliance on cellular hotspots and subscriptions to bridge the homework gap. Lindsay Unified School District initially considered offering students without internet access at home MiFi hotspot devices after being offered 2,000 free hotspots conditioned on the purchase of monthly mobile subscriptions: “[T]he district concluded that the total cost of nearly \$1 million annually was unsustainable. In addition, the indoor signal strength for mobile carrier 4G networks in much of Lindsay is spotty at best.”¹³

Similarly, soon after pandemic-related shutdowns a year ago, the school district in McAllen, Texas, originally opted to lend 8,000 Wi-Fi hotspots to students without home broadband access, but quickly concluded this solution was inadequate due to spotty mobile service and the financial unsustainability of monthly subscriptions. McAllen has begun deploying private LTE to connect students in these areas directly to their school’s network by leveraging CBRS spectrum.¹⁴

¹⁰ *Id.* at 26-28.

¹¹ *Ibid.*

¹² *Id.* at 31-34.

¹³ *Id.* at 24-26.

¹⁴ *Id.* at 32.

The realities in communities such as McAllen and Lindsay demonstrate that cellular hotspots are not always a feasible solution to the digital divide in many parts of the country, particularly in rural, Tribal, and other hard-to-serve regions, or even in certain areas within exurban districts that have neither cable service nor mobile signal strength to support video streaming indoors. In the end, Lindsay constructed a community Wi-Fi network using a combination of unlicensed 5 GHz spectrum and 2.5 GHz spectrum in the Educational Broadband Service band that has served the community effectively.¹⁵

In addition, SHLB expressed concern about the problems with the urban/rural database in the Telecommunications program of the Rural Health Care program. As SHLB has pointed out in previous filings, we are concerned that some rates in the database are upside down (the urban rates are higher than the rural rates), which will mean that many rural healthcare providers will receive no subsidy from the Telecom program. Because rural healthcare providers must pay the urban rate, the database could cause many healthcare providers to suffer significant rate increases, sometimes tripling the rates that they pay today—an absurd result during a nationwide pandemic in which rural healthcare providers need enhanced connectivity to handle the spike in telemedicine. SHLB again urged the Commission to postpone the use of the database until it conducts an analysis of the impact of the rates in the database on rural healthcare providers.

OTI and SHLB thank the Commissioner, the Acting Chairwoman, and the Commission broadly, for taking on these very important issues, and urge the Commission to grant the E-Rate petitions and postpone the RHC database with haste.

Respectfully submitted,

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¹⁵ *Ibid.*