

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Modernizing the E-rate Program for Schools and Libraries)	WC Docket No. 13-184
)	
Petition for Expedited Declaratory Ruling and Waivers Allowing the Use of E-rate Funds for Remote Learning During the COVID-19 Pandemic)	

**PETITION FOR EXPEDITED DECLARATORY RULING AND WAIVERS
ALLOWING THE USE OF E-RATE FUNDS FOR REMOTE LEARNING
DURING THE COVID-19 PANDEMIC**

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Executive Summary

Pursuant to section 1.2 of the Commission’s rules, the Schools, Health & Libraries Broadband Coalition (SHLB) and the other above-named education advocates (collectively, the Petitioners) respectfully request an expedited declaratory ruling to allow temporary “off-campus” use of E-rate-funded services.¹ The declaratory ruling and subsequent actions requested in this Petition would help schools connect students to the Internet and enable remote learning for the duration of the COVID-19 pandemic.

Every American family with school-age children has faced challenges over the past year, as the COVID-19 pandemic has caused an unprecedented shift to online learning. But the burden is greatest for the estimated 15 to 17 million students that cannot afford or access a home Internet connection. Before the pandemic, these families’ lack of a broadband connection hindered their children’s ability to do homework; with many schools still operating remotely full- or part-time during the pandemic, it forecloses their ability to participate in online instruction or, in some cases, to do any schoolwork at all.

In one of his first Executive Orders, President Biden stated: “The Federal Communications Commission is encouraged, consistent with applicable law, to increase connectivity options for students lacking reliable home broadband, so that they can continue to learn if their schools are operating remotely.”² Consistent with this directive, the Commission can dramatically improve circumstances for these underserved students, and for schools all over the country that are struggling to educate all of their students, by taking the temporary, limited measures requested in this Petition. As shown below, these actions are well within the Commission’s authority, and in fact all of the actions requested in this Petition could be taken by the Wireline Competition Bureau on delegated authority.

- As noted above, the Petitioners ask that the Commission issue a declaratory ruling to clarify that, for the duration of the pandemic, the off-campus use of E-rate-supported services to enable remote learning constitutes an “educational purpose” and is therefore allowed under program rules.
- The declaratory ruling will allow schools and libraries to extend E-rate-funded broadband networks and services outside of a school or library location during Funding Years 2020 and 2021, without losing E-rate funds they are otherwise eligible to receive. Importantly, this requested action would not require the collection of any additional Universal Service funds.
- Given the severity of our current national emergency, the Petitioners ask that the Bureau release hundreds of millions of dollars—currently not designated for use

¹ 47 C.F.R. § 1.2.

² President Joseph R. Biden, Jr., *Executive Order on Supporting the Reopening and Continuing Operation of Schools and Early Childhood Education Providers*, Jan. 21, 2021, available at <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/21/executive-order-supporting-the-reopening-and-continuing-operation-of-schools-and-early-childhood-education-providers/>.

but held in the E-rate program—to support remote learning. There is little justification for keeping E-rate funds in reserve when the country is facing such an enormous educational crisis.

- The Commission should use the program’s existing discount methodologies, which take into account socioeconomic status and rural location, in calculating the amount of funding that applicants may receive. Applicants will have the incentive to make cost-effective purchases because they will have to pay a share of the total cost of services.
- To facilitate the distribution of additional funding, Petitioners ask that the Commission direct the Universal Service Administrative Company (USAC) to establish a “remote learning application window” as soon as practicable for the specific purpose of allowing applicants to submit initial or revised requests for E-rate funding for off-campus services used for educational purposes during Funding Years 2020 and 2021.
- The Petitioners ask the Commission to waive all rules necessary to effectuate these actions for remote learning funding applications, including the competitive bidding, eligible services, and application rules, pursuant to section 1.3 of the Commission’s rules.³
- The Petitioners respectfully request expedited review of this petition, so that schools and libraries may take action to deploy solutions as soon as possible.

³ 47 C.F.R. § 1.3.

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I. BACKGROUND

During the past year, the COVID-19 pandemic has forced schools all over the country to conduct classes solely or partially online. The pandemic resulted in the near total shutdown of schools' in-person attendance last spring, affecting 55.1 million students at 124,000 U.S. public and private schools.⁴ Schools shifted to remote learning almost overnight. The prevalence of remote learning continued into the 2020-2021 school year, with only 24 percent of school districts returning to in-person instruction full-time. Nearly half of all districts (49 percent) relied on remote learning, while 27 percent began with hybrid instruction.⁵ Among the 100 largest school districts, 74 percent chose to begin the school year relying entirely on remote learning for their more than 9 million students.⁶

SHLB, the Consortium for School Networking (CoSN), the American Library Association (ALA), the National Schools Boards Association (NSBA), the State Educational Technology Directors Association (SETDA), the State E-rate Coordinators' Alliance (SECA), the Urban Libraries Council (ULC), the Wireless Futures Project of New America, and the Wisconsin Department of Public Instruction (together, the Petitioners) have long raised the alarm that the digital divide was affecting millions of students across the country. Students who have access to broadband at home consistently score higher in reading, math, and science than those

⁴ "Map: Coronavirus and School Closures in 2019-2020," *Education Week* (last updated Sept. 16, 2020), available at <https://www.edweek.org/ew/section/multimedia/map-coronavirus-and-school-closures.html>.

⁵ For more on the distinctions between remote or distance learning, online learning, and hybrid or blended learning, see Kristina Ishmael, et al., *Pandemic Planning for Distance Learning: Scenarios and Considerations for PreK-12 Education Leaders* (May 27, 2020), available at <https://www.newamerica.org/education-policy/reports/pandemic-planning-for-distance-learning-scenarios-and-considerations-for-prek12-education-leaders/>.

⁶ "School Districts' Reopening Plans: A Snapshot," *Education Week* (updated Sept. 23, 2020), available at <https://www.edweek.org/ew/section/multimedia/school-districts-reopening-plans-a-snapshot.html>.

who do not.⁷ Prior to the pandemic, at least students without sufficient broadband to complete schoolwork at home—those in the “homework gap”—were in school during the school day. They could also more readily find a library or friend’s home to get Internet access to do schoolwork. Now, with schools largely operating remotely on a full or part-time basis, and many public libraries closed or strictly limiting the time a patron can be in the building, these students cannot access the Internet at all, or only on their phones.⁸ Numerous news outlets have reported that insufficiently connected students are, as a result, much farther behind now than they ever were during the pre-COVID-19 “homework gap” era.⁹

And this problem is widespread: A report published by the Alliance for Excellent Education (All4Ed), National Indian Education Association (NIEA), National Urban League (NUL), and UnidosUS found that 16.9 million children—or 8.4 million households—do not have high-speed broadband access at home.¹⁰ A separate report from Common Sense Media found that an estimated 15 to 16 million K-12 public school students lack either sufficient broadband access or the devices needed to adequately participate in remote learning—a group that represents 30 percent of the more than 50 million students who needed to learn remotely from

⁷ Angelina KewalRamani et al., “Student Access to Digital Learning Resources Outside of the Classroom,” National Center for Education Statistics (Apr. 2018), *available at* <https://nces.ed.gov/pubs2017/2017098/index.asp>.

⁸ *Id.*

⁹ Moriah Balingit, “‘A national crisis’: As coronavirus forces many schools online this fall, millions of disconnected students are being left behind,” *Washington Post*, Aug. 16, 2020, *available at* https://www.washingtonpost.com/education/a-national-crisis-as-coronavirus-forces-many-schools-online-this-fall-millions-of-disconnected-students-are-being-left-behind/2020/08/16/458b04e6-d7f8-11ea-9c3b-dfc394c03988_story.html.

¹⁰ Future Ready Schools, “Students of Color Caught in the Homework Gap” (July 2020), *available at* <https://futureready.org/homework-gap/> (*Future Ready Schools Report*).

home when schools closed in March or April 2020.¹¹ Students in rural areas also lack the broadband connectivity needed for remote learning at higher rates—37 percent of students in rural areas lack access to the broadband needed for online learning compared to 21 percent of students in urban areas.¹²

In addition, it is well known that people of color are disproportionately harmed by lack of access to broadband, as are people in poorer urban and rural areas of the country. The harmful effects on historically disadvantaged communities have only been magnified as the pandemic has turned the homework gap into a remote learning chasm. The All4Ed et al. report found that nearly one out of three Black, Latinx, and American Indian/Alaska Native households do not have high-speed internet access at home.¹³ According to that report, 34.2 percent of American Indian/Alaska Native households with one or more children age 17 or younger lack high-speed broadband at home, as do 31.2 percent of Latinx households, and 30.6 percent of Black households, compared to 20.9 percent of white households.¹⁴

Last year, the Commission recognized that the pandemic-driven need to connect with students learning remotely has increased the bandwidth demands on schools, increasing their

¹¹ Common Sense Media, “The Homework Gap: Teacher Perspectives on Closing the Digital Divide,” available at https://www.common Sense Media.org/sites/default/files/uploads/kids_action/homework-gap-report-2019.pdf (*Common Sense Media Report*).

¹² *Id.* at 3.

¹³ *Future Ready Schools Report*, at 1.

¹⁴ *Id.* at 2.

costs for telecommunications and Internet access services delivered to school buildings.¹⁵ A recent survey of 2,000 schools and libraries that participate in E-rate found that 93 percent would use current E-rate funds to help students get online if the FCC allowed it.¹⁶ Even without assistance from E-rate, school districts across the country have been innovating to help their students get online outside of school.¹⁷ They are boosting Wi-Fi signals at their schools so that kids can sit and work outside the school building.¹⁸ They are buying mobile hotspots.¹⁹ They are publishing maps of available broadband hotspots.²⁰ They are entering into public-private partnerships with service providers to deploy mobile wireless equipment.²¹ They are parking buses and bookmobiles equipped with Wi-Fi in neighborhoods so that students can access the

¹⁵ In March 2020, the Wireline Competition Bureau waived the E-rate gift rule to allow service providers to donate “improved broadband connections or equipment for telehealth or remote learning,” and to allow school districts to solicit and accept such gifts, “[in] light of the need for increased connectivity during this pandemic. *Rural Health Care Universal Service Support Mechanism; Schools and Libraries Universal Service Support Mechanism*, WC Docket No. 02-60, CC Docket No. 02-6, Order, 35 FCC Rcd 2741, 2741-42 ¶ 1 (Wireline Comp. Bur. 2020) (*COVID-19 Gift Rule Waiver Order*). In September, the Bureau directed USAC to open a second Funding Year 2020 application window “to allow schools to request additional E-Rate discounts for the limited purpose of purchasing additional bandwidth to meet the unanticipated and increased demand for on-campus connectivity” during the pandemic. *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 35 FCC Rcd 10347, 10351 ¶ 13 (Wireline Comp. Bur. 2020) (*September 2020 Application Window Order*).

¹⁶ Mark Lieberman, “Many Students Still Lack Home Internet, Here’s How Big the Problem Is,” *Education Week* (Oct. 14, 2020), available at http://blogs.edweek.org/edweek/DigitalEducation/2020/10/internet_access_gaps_survey.html.

¹⁷ See Michael Calabrese and Amir Nasr, “The Online Learning Equity Gap: Innovative Solutions to Connect All Students at Home,” Open Technology Institute at New America (Nov. 17, 2020), available at <https://tinyurl.com/y3vl3a6q>.

¹⁸ See Chacour Koop, “WiFi buses and parking lot learning: Schools adapt to teaching kids without internet,” *Raleigh News & Observer*, Apr. 6, 2020, available at <https://www.newsobserver.com/news/coronavirus/article241751376.html>.

¹⁹ See Jenny Brundin, “As Colorado Schools Reopen, Thousands Of Students Still Don’t Have Reliable Internet,” *CPR News*, Aug. 26, 2020, available at <https://www.cpr.org/2020/08/26/colorado-schools-reopening-Internet-access-inequality/> (noting that Denver has bought 2,700 mobile hotspots to extend broadband capability to students who wouldn’t otherwise have).

²⁰ Letter from Matt Schmit, Director, Illinois Office of Broadband, to Ajit Pai, Chairman, FCC, WC Docket Nos. 13-184 et al., at 1 (filed July 2, 2020) (Illinois Office of Broadband Letter).

²¹ *Id.*

Internet at home.²² Most impressively, a tiny, impoverished school district in the Aleutian Islands has risen to the challenge by creating its own network serving its students.²³

Reflecting these efforts, during the past year numerous other parties—including representatives of Illinois, Mississippi, Nevada, Colorado and Florida—have filed requests for E-rate support for off-campus broadband connectivity with the Commission. The Attorney General of Colorado, for example, filed an emergency petition for waiver similar to the instant petition, asking the Commission for temporary waivers of the cost-allocation and eligible services rules to allow E-rate support for off-campus services.²⁴ The Illinois Office of Broadband has asked the Commission to “expand E-rate provided support everywhere a child is being taught and everywhere a teacher, administrator, or librarian may work.”²⁵ The Mississippi Department of Education has asked that the Commission designate data cards and Wi-Fi hotspots as eligible services as long as schools continue to provide education remotely due to COVID-19, and the Florida Department of Management Services has made a similar request.²⁶ The Nevada State Board of Education has sought E-rate support for fixed wireless networks that can cover a

²² See Lauren Camera, “Disconnected and Disadvantaged: Schools Race to Give Students Access,” *U.S. News & World Report*, Apr. 1, 2020, available at <https://www.usnews.com/news/education-news/articles/2020-04-01/schools-rush-to-get-students-Internet-access-during-coronavirus-pandemic>; Granite State News Collaborative, “Broadband proves to be an issue as schools across NH switch to remote learning” *Bangor Daily News*, Aug. 23, 2020, available at <https://bangordailynews.com/2020/08/23/news/new-england/broadband-proves-to-be-an-issue-as-schools-across-nh-switch-to-remote-learning/>.

²³ See Shara Tibken, “In remote Alaska, broadband for all remains a dream. So a school district got creative,” *CNET*, Aug. 27, 2020, available at <https://www.cnet.com/news/in-remote-alaska-broadband-for-all-remains-a-dream-so-a-school-got-creative/>.

²⁴ Petition for Waiver on Behalf of the State of Colorado, WC Docket No. 13-184 (filed Sept. 2, 2020).

²⁵ Illinois Office of Broadband Letter at 3.

²⁶ See Letter from John Kraman, Chief Information Officer, Mississippi Department of Education, to Ajit Pai, Chairman, FCC, WC Docket No. 02-6, at 1 (filed Mar. 24, 2020); Letter from Lyell Walker, State E-Rate Coordinator, Florida Department of Management Services, to Ajit Pai, Chairman, FCC, WC Docket No. 02-6, at 1 (filed Mar. 12, 2020).

two-to-three-mile radius around a school site and could bridge 60 percent of the state’s student connectivity gaps.²⁷ These are just a few examples but they demonstrate the nationwide need as states and educators search for solutions to help students continue their education.²⁸

These recent efforts, though spurred by a pandemic, are in fact part of a trend that has been gaining momentum for years. There is a growing body of research showing how serious a problem the “homework gap” is for America’s most vulnerable children.²⁹ This research is accompanied by increased policy efforts and recommendations. Dating all the way back to the Commission’s 2010 E-rate *Sixth Report and Order*, which established a “Learning on the Go” pilot program, there has been a growing recognition that the statutory goals of the E-rate program may warrant dedicating funds to off-campus facilities, so that learning can continue at home.³⁰ More recently, in January 2018, the Competitive Access to Broadband Infrastructure Working Group of the Commission’s Broadband Deployment Advisory Committee recommended that

²⁷ See Letter from Nevada State Board of Education to Ajit Pai, Chairman, FCC, at 2-3 (filed July 30, 2020).

²⁸ See, e.g., Letter from Terry Loftus, Assistant Superintendent & Chief Technology Officer, San Diego County Office of Education, to Ajit Pai, Chairman, FCC, at 1 (filed Apr. 9, 2020) (asking the Commission to allow E-rate support for mobile Wi-Fi hotspots); Brief Comment from Fort Bend Independent School District, WC Docket No. 13-184 (filed August 7, 2020) (requesting E-rate support for hotspots).

²⁹ See, e.g., Letter from John D. Harrington, CEO, Funds For Learning to Marlene H. Dortch, Secretary, FCC, CC Docket No. 02-6, WC Docket No. 13-184, filed Apr. 17, 2020 (Funds For Learning Ex Parte); Future Ready Schools, “Students of Color Caught in the Homework Gap,” available at <https://futureready.org/homework-gap/>; *Common Sense Media*, “The Homework Gap: Teacher Perspectives on Closing the Digital Divide,” available at https://www.common Sense Media.org/sites/default/files/uploads/kids_action/homework-gap-report-2019.pdf.

³⁰ *Schools and Libraries Universal Service Support Mechanism; A National Broadband Plan for our Future*, CC Docket No. 02-6, GN Docket No. 09-51, Sixth Report and Order, 25 FCC Rcd 18762, 18783 ¶ 41 (2010) (*Sixth Report and Order*).

E-rate funding be used to extend broadband to students off campus.³¹ The Government Accountability Office made a similar recommendation in a July 2019 report that urged the Commission to make additional support available for off-school-premises wireless Internet access.³² And the petitions filed last year are nothing new: the Commission has had two petitions before it since 2016 regarding off-campus use of E-rate funding—one from Boulder Valley School District and one from Microsoft and two southern Virginia school districts—and another filed in 2017 by the West Virginia Department of Education.³³

Consistent with those previous requests, this Petition respectfully requests that the Commission issue a declaratory ruling clarifying that the off-campus use of broadband services and equipment for the purpose of facilitating remote learning during the COVID-19 pandemic constitutes an educational purpose, making those services and equipment eligible for E-rate support. The requested declaratory ruling would make it unnecessary for schools or libraries to cost-allocate between on- and off-campus uses, thereby giving them greater flexibility to use their existing broadband connections for educational purposes to connect students, teachers, and other school staff to the Internet from their homes. The declaratory ruling would also provide

³¹ Report of the Competitive Access to Broadband Infrastructure Working Group, Presented to the Broadband Deployment Advisory Committee of the Federal Communications Commission, January 23-24, 2018, at 54-58, <https://www.fcc.gov/sites/default/files/bdac-cabi-report-01232018.pdf> (“To ensure that all residential locations receive broadband service, the Commission should consider how to use E-rate and other universal service funding to deploy service to certain unserved and underserved locations.”).

³² Government Accountability Office, “FCC Should Assess Making Off-School-Premises Access Eligible for Additional Federal Support,” Report, July 2019, <https://www.gao.gov/assets/710/700629.pdf>.

³³ Petition for Waiver on Behalf of Boulder Valley School District, WC Docket Nos. 13-184, 10-90 (filed May 16, 2016), *available at* <https://ecfsapi.fcc.gov/file/60001843683.pdf>; Joint Petition for Clarification or, in the Alternative, Waiver of Microsoft Corporation et al., WC Docket No. 13-184 (filed June 7, 2016), *available at* <https://ecfsapi.fcc.gov/file/60002098542.pdf>; Reply Comments and Request for Waiver Filed by the West Virginia Department of Education, CC Docket No. 02-6, WC Docket Nos. 13-184, 10-90 (filed Sept. 13, 2017), *available at* <https://ecfsapi.fcc.gov/file/10913934430032/WV%20Bus%20Hotspots.pdf>.

the legal foundation necessary to use existing financial reserves to help applicants pay for remote learning equipment and services.

In order to effectuate the requested relief, the Petitioners ask that the Commission direct USAC to open a new remote learning filing window as soon as practicable, and also that the Commission waive the program's rules to the extent necessary to ensure the most efficient use of these funds. Finally, the Petitioners explain why the requested declaratory ruling and associated actions are within the Commission's statutory authority, and why all of the actions requested in this Petition could be taken by the Wireline Competition Bureau on delegated authority.

II. THE COMMISSION SHOULD DECLARE THAT OFF-CAMPUS USE OF E-RATE-SUPPORTED SERVICES TO SUPPORT REMOTE LEARNING DURING THE PANDEMIC CONSTITUTES AN "EDUCATIONAL PURPOSE"

As explained above, the COVID-19 pandemic has exacerbated the digital divide and made longstanding calls for the Commission to allow E-rate support for off-campus broadband a matter of great urgency. To address the challenges the pandemic has created, the Commission should declare that E-rate funds may be used to support off-campus equipment and services for the limited purpose of expanding remote learning for the duration of the pandemic.

Section 254(h)(1)(B) of the Communications Act provides for universal service support for services provided "to elementary schools, secondary schools, and libraries *for educational purposes*."³⁴ The Commission has interpreted "educational purposes" broadly, as "activities that are integral, immediate, and proximate to the education of students, or in the case of libraries, integral, immediate, and proximate to the provision of library services."³⁵ Under this definition, there is no question that technological solutions that schools and libraries are deploying or want

³⁴ 47 U.S.C. § 254(h)(1)(B) (emphasis added).

³⁵ 47 C.F.R. § 54.500 (definition of "educational purposes").

to deploy to expand broadband accessibility for remote learning during the pandemic will be used for educational purposes. This connectivity can take many forms: examples include (1) a cable or telephone company connection to a student or teacher home; (2) personal hotspots with mobile data connections; (3) school or library Wi-Fi networks; (4) school bus or other Wi-Fi hotspots in targeted locations; or (5) a fixed wireless private LTE solution where the district's network connects directly to student and teacher homes. These solutions are integral, immediate, and proximate to the education of students: as explained above, these facilities will not just be improving students' educational experiences, but in many cases will be making it possible for students to learn *at all*.

The requested declaratory ruling would be consistent with prior decisions where the Commission has authorized the use of E-rate funding to support off-campus services and equipment used for educational purposes. The Commission has established a presumption that services provided on a school campus serve an educational purpose.³⁶ This presumption does not mean there is a ban on using E-rate services provided off campus; it simply means that the applicant needs to show that the service serves an "educational purpose." With respect to services provided off campus, the Commission has noted that various off-site activities do serve educational purposes, such as "a school bus driver's use of wireless telecommunications services while delivering children to and from school, a library staff person's use of wireless telecommunications service on a library's mobile library unit van, and the use by teachers or other school staff of wireless telecommunications service while accompanying students on a

³⁶ *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Second Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 9202, 9208 ¶ 17 (2003) (*Second Report and Order*).

field trip or sporting event.”³⁷ As noted above, in 2010 the Commission established a pilot program to explore funding off-campus use of E-rate-supported services, acknowledging “the benefits of enabling innovation in learning outside the boundaries of the school building and the traditional school day.”³⁸ More recently, in the *First E-rate Modernization Order*, the Commission noted that bookmobiles are eligible for E-rate support.³⁹ The Petitioners respectfully argue that allowing the temporary use of E-rate funding to support off-campus services, as the Petitioners request, would be consistent with these prior off-campus uses of E-rate-supported services that the Commission has allowed, particularly because the Petitioners are requesting this relief for a limited time.

Because the statute and Commission precedent support declaring remote learning to be an educational purpose under the limited circumstances described herein, the Petitioners respectfully asks that the Commission grant the requested declaratory ruling.

III. THE COMMISSION SHOULD DECLARE IMMEDIATELY THAT COST-ALLOCATION OF CURRENTLY ELIGIBLE E-RATE SERVICES USED OFF-CAMPUS IS NOT REQUIRED

Once the Commission has found that remote learning is an “educational purpose” during the pandemic, it should also clarify immediately the effect of that declaration on specific existing program policies. Specifically, the requested declaratory ruling would make it unnecessary for schools to cost-allocate between on- and off-campus uses and would give them greater flexibility

³⁷ *Sixth Report and Order*, 25 FCC Rcd at 18778 n.90.

³⁸ *See id.* at 18784 ¶ 43.

³⁹ *Modernizing the E-rate Program for Schools and Libraries*, WC Docket No. 13-184, Report and Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd 8870, 8933 ¶ 153 (2014) (*First E-rate Modernization Order*).

to use their existing broadband connections to connect students to the Internet from their homes or other locations for educational purposes.⁴⁰

While the Commission has allowed the use of E-rate services off-campus, as described above, the Commission’s general approach has been that most off-campus services are not eligible.⁴¹ Here, the Commission should state specifically that, for the duration of pandemic, applicants do not have to forgo E-rate funding on the costs of services used outside of the school or library campus when those services are used for remote learning. The immediate granting of this relief would mean that applicants do not have to undertake the complicated cost allocations for their FY 2021 applications, which are due by March 25, 2021.

In fact, the Commission does not even need to issue the requested declaratory ruling that remote learning constitutes an “educational purpose” before clarifying that cost-allocation for remote learning use is not required. Prior to the Commission’s *Sixth Report and Order* in 2010, schools were required to deduct a prorated amount from their funding requests if the services were used after school hours by the general public at a school; this “community use” was not considered to be for an “educational purpose.”⁴² In the *Sixth Report and Order*, the Commission revised the rule stating that E-rate-funded services must be used solely for educational purposes

⁴⁰ As noted above, many other parties have already filed petitions requesting E-rate support for off-campus broadband connections.

⁴¹ *Sixth Report and Order*, 25 FCC Rcd at 18778 ¶ 41 (“[O]ur rules presume that services used on school or library premises are serving an educational purpose If a device that provides wireless Internet access service, such as a laptop or other mobile computing device, is taken off school or library premises, however, applicants are required to cost-allocate the dollar amount of support for wireless Internet access use for the time that the device is not at the school or library and remove that portion from its E-rate funding request.”); see also *Wireline Competition Bureau Confirms That Community Use of E-Rate-Supported Wi-Fi Networks Is Permitted During School and Library Closures Due To Covid-19 Pandemic*, CC Docket No. 02-6, WC Docket No. 13-184, Public Notice, 35 FCC Rcd 2879 (2020).

⁴² See *Sixth Report and Order*, 25 FCC Rcd at 18773-74 ¶¶ 20-21.

to state instead that E-rate services must be used “*primarily* for educational purposes.”⁴³ That change meant that some use for non-educational purposes—“community use”—was allowed without requiring schools to cost-allocate their funding requests.⁴⁴ Therefore, even if the Commission did not declare remote learning to be an “educational purpose,” the Commission (or the Bureau) could nonetheless immediately clarify that applicants do not have to cost-allocate funding for off-campus services used for remote learning because those services are being used *primarily* for educational purposes.

Allowing schools and libraries to use their E-rate funded broadband to serve teachers and students no matter where they are located *for educational purposes* without cost allocation results in a more efficient use of the E-rate funding. And, as reiterated in the Bureau’s March 2020 Public Notice, it would also be appropriate for the requested clarification of the cost-allocation rule to cover services and equipment purchased by libraries to extend E-rate-supported services beyond library property—whether via a small tower that expands coverage to allow socially distanced broadband access, or via a Wi-Fi-enabled bookmobile or school bus—to help students access the Internet.⁴⁵

The Petitioners emphasize that the further clarification on cost allocation need not impose any additional costs on the E-rate program. Schools and libraries will simply have the flexibility

⁴³ See 47 C.F.R. § 54.503(c)(2)(ii)(A); *Sixth Report and Order*, 25 FCC Rcd at 18774 ¶ 22.

⁴⁴ *Sixth Report and Order*, 25 FCC Rcd at 18774-77 ¶¶ 22-27.

⁴⁵ See *Wireline Competition Bureau Confirms That Community Use of E-Rate-Supported Wi-Fi Networks Is Permitted During School and Library Closures Due To Covid-19 Pandemic*, CC Docket No. 02-6, WC Docket No. 13-184, Public Notice, 35 FCC Rcd 2879 (2020).

to use their existing funding to keep students learning during the unprecedented challenges they are currently facing.⁴⁶

IV. THE COMMISSION SHOULD ALLOW APPLICANTS TO APPLY FOR ADDITIONAL E-RATE FUNDS FOR OFF-CAMPUS SERVICES FOR REMOTE LEARNING

Additional funding and flexibility for schools and libraries to use the connectivity solution most appropriate for their students and needs could immediately narrow the online learning equity gap. To that end, the Petitioners respectfully request that the Commission authorize the use of existing E-rate “reserve” funds for off-campus services to facilitate remote learning during the pandemic. The Petitioners ask that the Commission direct USAC to open a new window for applications for this additional funding as soon as practicable. The Petitioners ask that the Commission waive any rules necessary to allow applicants to take advantage of this additional funding, including the competitive bidding, application, and eligible services rules. Finally, the Petitioners note that any of the actions requested below could also be taken by the Wireline Competition Bureau on delegated authority.

A. The Commission Should Use Existing “Reserves” to Fund Off-campus E-rate Services

As the Petitioners have explained, in certain circumstances—like a school extending its Wi-Fi signal off-campus—the requested clarification of the cost-allocation rule for off-campus use will not require additional E-rate funding and will have an enormous positive effect. Given the severity of the crisis facing the nation’s schools, however, the Petitioners believe that the Commission should and can do more. Specifically, the Commission should make additional

⁴⁶ If the requested relief does result in increased demand for funding, the Commission can address the increased demand without collecting additional contributions, as discussed more fully below.

E-rate funding available to support off-campus learning during the pandemic and temporarily waive any E-rate regulations that stand in the way.

First, the Petitioners urge the Commission to make E-rate funding that is currently in “reserve” available for this purpose. These funds could include monies that were committed in previous years but were not used by the applicants (“carry-forward” or “rollover”). E-rate carry-forward funding held in reserve has been substantial in recent years. This past July, the Wireline Competition Bureau reported that “according to USAC projections, \$500 million in unused funds from previous years is available for use in E-Rate funding year 2020.”⁴⁷ The potentially available funds also could include monies set aside for appeals that have not yet been addressed by USAC or the Commission.⁴⁸ There is precedent for the use of reserve funds. In 2011, the Bureau directed USAC to accelerate disbursements of E-rate funding reserves so that more schools and libraries could access priority two funding.⁴⁹ The Petitioners respectfully argue that, consistent with that prior exercise of delegated authority, the Bureau could direct USAC to identify funds that would be available for carry-forward or held back for appeals and instead assign those funds to be used for remote learning applications. There is simply no reason during a time of national crisis that E-rate funding should be kept in the bank when it is desperately needed by schools and libraries.

The Petitioners ask that the Commission follow existing E-rate discount methodology in the allocation of these funds. That methodology would continue to prioritize applicants in rural

⁴⁷ *Wireline Competition Bureau Directs USAC to Fully Fund Eligible Category One and Category Two E-Rate Requests*, CC Docket No. 02-6, Public Notice, 35 FCC Rcd 6756, 6756 (July 6, 2020) (*July 2020 Public Notice*).

⁴⁸ *Second Report and Order*, 18 FCC Rcd at 9223 ¶ 62 (2003)

⁴⁹ *Schools and Libraries Universal Service Support Mechanism; Funds For Learning, LLC Petition to Reject the Administrator’s Discount Threshold Recommendation for Funding Year 2010*, CC Docket No. 02-6, Order, 26 FCC Rcd 11145, 11145 ¶ 1 (Wireline Comp. Bur. 2011) (*Funds for Learning Order*).

locations and those with the highest poverty rates. It also would ensure that applicants have an incentive to carefully consider the cost of the services when selecting the services and the provider. This approach will ensure that the available resources will be used to reach as many school students as possible.

The Petitioners also note that the demand may exceed the funds already collected. In recent years, annual E-rate program demand has typically been about \$1 billion under the program cap, as was noted in a letter from 16 U.S. senators to the Commission last March.⁵⁰ The Bureau reported last July that USAC estimated the total demand for FY 2020 would be \$2.91 billion.⁵¹ As the inflation-adjusted cap for FY 2020 is \$4.23 billion,⁵² the program appears to have the potential to approve additional emergency expenditures by schools and libraries by as much as \$1.3 billion.

Should demand for additional funding exceed the available E-rate funding, the Commission has a variety of options. For example, the Commission could simply cap additional funding, then either divide the available funds equally among applicants or use a formula, similar to that which exists for Category 2 services.⁵³ To help ensure funds reach as many communities as possible, the Commission should ensure that funding to schools and school districts does not

⁵⁰ Letter from Senators Edward J. Markey, Brian Schatz, Michael Bennet, et al., to Chairman Ajit Pai (Mar. 16, 2020), *available at* <https://tinyurl.com/qr9bjoa>.

⁵¹ See *July 2020 Public Notice*, 35 FCC Rcd at 6756.

⁵² See *Wireline Competition Bureau Announces E-Rate and RHC Programs' Inflation-Based Caps for Funding Year 2020*, CC Docket No. 02-6, Public Notice, 35 FCC Rcd 2062 (Wireline Comp. Bur. 2020); 47 C.F.R. § 54.507(a)(3).

⁵³ The Commission could ask schools and libraries to report how many students and staff without home Internet access they are serving or need to serve and a certain amount of funding could be provided per capita.

pay for services paid for by other federal funding (although the other funding could be used to pay the applicant's share of the total costs of services).⁵⁴

B. The Commission Should Direct USAC to Open an Additional Window for Remote Learning Applications

To effectuate the cost-allocation relief requested above, the Commission should direct USAC to open an additional filing window—a “remote learning application window”—specifically for remote learning funding requests. The Commission’s rules authorize USAC to “implement such additional filing periods as it deems necessary.”⁵⁵ According to the rule, USAC could itself make the determination that an additional window is necessary, especially given the crisis situation the country is currently facing. As a practical matter, however, USAC is unlikely to act without direction from the Commission. The Petitioners therefore ask the Commission (or the Bureau) to direct USAC to open an additional funding window as soon as practicable, to allow applicants to request additional funding—either for new services or for service that were previously cost-allocated—for off-campus broadband connections and equipment that would be used to serve students and teachers.

To be clear, the remote learning application window would be a separate filing window solely for applications for off-campus services in support of remote learning for Funding Years 2020 and 2021. While it may overlap with the normal Funding Year 2021 filing window, they would be separate windows with separate deadlines. The Petitioners note that applicants are currently preparing applications for FY 2021. In light of that upcoming deadline, and the Petitioners’ request that the Commission open the remote learning application window as soon as

⁵⁴ Some states have allowed the use of CARES Act funds for remote learning connectivity and supporting network equipment.

⁵⁵ 47 C.F.R. § 54.507(c).

practicable, the Petitioners request that the remote learning application window remain open for at least 30 days after the Funding Year 2021 window closes on March 25, 2021. This timing would allow the Commission to open the remote learning application window as soon as possible while giving applicants ample time to prepare applications both for ordinary Funding Year 2021 funding *and* for the remote learning funding made available by granting this Petition.

C. The Commission Should Waive Its Rules to the Extent Necessary to Allow Applicants to Take Advantage of the Relief Described Above

To make the most efficient use of federal funds, to ensure that schools and libraries have the ability to serve their student and teachers most effectively, and to distribute funds as quickly as possible, the Commission should waive the competitive bidding rules, streamline the E-rate FCC Form 471 application, and waive the eligible services rule to add network equipment and other services as eligible when purchased for off-campus educational purposes, in order to effectuate the relief requested above. These waivers should cover services purchased both in FYs 2020 and 2021. All of the requested waivers could be granted by the Bureau on delegated authority.

Any of the Commission's rules may be waived if good cause is shown.⁵⁶ The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.⁵⁷ In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.⁵⁸

⁵⁶ 47 C.F.R. § 1.3.

⁵⁷ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

⁵⁸ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166.

Competitive Bidding Rules. First, the Petitioners ask the Commission to waive the competitive bidding rules to allow schools to ask for additional funding to increase their broadband capacity.⁵⁹ This will allow schools to apply for additional E-rate funding pursuant to the request for declaratory ruling above, without having to conduct a new competitive bidding process. As explained above, schools providing broadband connectivity directly to students is the only way to ensure their students learning remotely can have access to an education. It is therefore in the public interest to waive the competitive bidding rules as requested.

The requested waiver would not compromise the goals of the E-rate program or undermine the competitive bidding requirements. Many school districts have already conducted a competitive bidding process for the broadband facilities and services they have now. They have selected and are receiving service from the service provider that submitted the most cost-effective bid and made these economical choices before they knew any E-rate funding may be available. Schools therefore had even more of an incentive to get the best prices. Consistent with the approach taken in the RHC COVID-19 Telehealth program, there is no need to require a new competitive bidding process to disburse additional E-rate funding.⁶⁰

Eligible Services Rule. The Petitioners also ask the Commission to waive the eligible services rule for FYs 2020 and 2021, and find that wired or wireless network access equipment and services necessary for remote learning would be eligible services for the remote learning

⁵⁹ This waiver would include a waiver of the Commission's requirement that schools and libraries demonstrate that data plans and air cards must be the most cost-effective option for providing internal broadband access for portable mobile devices, if such rule applies off-campus. *First E-rate Modernization Order*, 29 FCC Rcd at 8932-33 ¶ 151. Given the urgency at which schools had to act before school started last fall, applicants may have had to purchase equipment and services without comparing these types of wireless services to other services.

⁶⁰ *Promoting Telehealth for Low-Income Consumers; COVID-19 Telehealth Program*, WC Docket Nos. 18-213, 20-89, Report and Order, 35 FCC Rcd 3366 (2020) (*Connected Care Pilot Program Order*).

application window. These services would not ordinarily be eligible for E-rate support, including, but not limited to, hotspot devices, and fixed or mobile wireless towers.⁶¹ This is in addition to network equipment, such as routers, and monthly recurring charges for telecommunications that are already eligible under the Commission’s rules. The Commission should clarify that applicants that purchase equipment may keep that equipment for use after the pandemic, in order to ensure efficient use of E-rate funds.

Schools should be able to choose the solution that best works for them and their students—whether that is creating or expanding their own networks or purchasing services from existing telecommunications and Internet service providers. The Commission should keep its directives in this regard as broad as possible so as not to inadvertently omit or favor certain technologies. This waiver would also help schools extend broadband access to students who would otherwise lack such access, and therefore lack the ability to participate in remote learning, and as such is in the public interest.

July 1, 2020 Effective Date. The E-rate program usually is limited to the funding of prospective purchases of equipment and services. Many schools and libraries already have made purchases and are incurring expenses already to facilitate off-campus connectivity. These entities should be permitted to benefit from the special filing window as well. The Commission should therefore allow applicants to apply for retroactive funding of their FY 2020 expenses as well as for funding of any prospective purchases from the inception of the pandemic emergency through FY 2021. Between the challenges of producing and administering millions of vaccines

⁶¹ For example, one wireless solution is a small tower that can be placed on the back of a pickup truck and deployed to remote locations relatively easily. These towers are attached by cable to existing routers on a carrier’s fiber backbone. Each of these units can provide 300 Mbps of capacity within a 200-yard radius—essentially, each one functions as a “super-hotspot.”

(none of which is currently approved for children under 16) and the uncertainties surrounding the new strains of COVID, it is far from clear how many U.S. students will be back in school full time when the 2021-2022 school year begins in the fall.

Waiver of Form 471 Certifications and Other Streamlining Measures. The applications for requesting off-campus funding for educational activities may require waiver of other regulations that are embedded in the Form 471 certifications.⁶² The Petitioners respectfully ask the Commission to establish a streamlined process that will allow for expedited review and processing of the applications. It is imperative that the funds are disbursed as quickly as possible to schools and libraries in order to ensure all students have access to online remote learning. The Petitioners note that the Children’s Internet Protection Act applies to Internet access services funded by E-rate, at least to the extent schools and libraries provide the devices students are using to access the Internet.⁶³

V. THE REQUESTED ACTIONS ARE WITHIN THE COMMISSION’S STATUTORY AUTHORITY, AS WELL AS THE AUTHORITY DELEGATED TO THE BUREAU

A. The Commission Has Statutory Authority to Grant the Requested Relief

Granting the requested declaratory ruling and waivers are within the Commission’s authority to administer the Communications Act.⁶⁴ Declaratory rulings are specifically authorized “to terminate a controversy or remove uncertainty” about the interpretation and

⁶² For example, one certification requires applicants to verify they are compliant with cost allocation requirements. Another certification states that only the entities listed on the application will be recipients of the services. Yet another certification requires there to be legally binding agreements in place to support the requested services and equipment. These are just examples of some of the certifications that need to be reviewed and will need to be waived.

⁶³ 47 U.S.C. § 254(h)(5)(A)(i) (“an elementary or secondary school *having computers* with Internet access”) (emphasis added).

⁶⁴ *City of Arlington v. FCC*, 569 U.S. 290, 307 (2013).

application of the Communications Act and implementing rules.⁶⁵ The Commission can issue the requested declaratory ruling consistent with its authority to interpret and implement the Act and its own rules. In addition, all of the actions requested in this Petition could be taken by the Wireline Competition Bureau on delegated authority.

As noted above, section 254(h)(1)(B) provides for universal service support for services provided “to elementary schools, secondary schools, and libraries *for educational purposes*.”⁶⁶ The Commission has defined the term “educational purposes,” and the Commission can further clarify whether off-campus use of equipment to support remote learning during the pandemic constitutes an “educational purpose” and is thus eligible for E-rate support under Section 254 of the Act.

Congress did not explicitly limit E-rate support to the physical classroom in section 254. Section 251(h)(1)(B) makes no mention of the “classroom,” referring more broadly to “elementary schools, secondary schools, and libraries.” Likewise, section 251(c) does not reference “classroom” when defining universal service and authorizing the Commission to define the services eligible for universal support on an ongoing basis. Rather, section 251(c) uses the terms “education” (in section 251(c)(1)) and “schools” (in section 251(c)(3)), but never specifies the “classroom.” Where section 254 does use the term “classroom,” it does not always use it exclusively and restrictively.⁶⁷ It takes quite a narrow reading of the statute, then, to conclude

⁶⁵ 5 U.S.C. § 554(e); 47 C.F.R. § 1.2(a) (“The Commission may . . . on motion or on its own motion issue a declaratory ruling terminating a controversy or removing uncertainty.”)

⁶⁶ 47 U.S.C. § 254(h)(1)(B) (emphasis added).

⁶⁷ 47 U.S.C. § 254(b)(6) (“Elementary and secondary schools *and* classrooms . . . should have access to advanced telecommunications services . . .”) (emphasis added); 47 U.S.C. § 254(h)(2)(A) (“The Commission shall establish competitively neutral rules . . . to enhance, to the extent technically feasible and economically reasonable, access to advanced telecommunications and information services for all public and nonprofit elementary and secondary school classrooms . . .”).

that the Act limits E-rate support to the classroom when Congress gave no indication that it intended such a limitation.

Even if one were inclined to interpret the Act as generally limiting E-rate support to services and equipment provided in classrooms, it would still be appropriate—and consistent with the Commission’s statutory authority—to grant the requested declaratory ruling. The Act does not define “classroom,” and it is entirely practical and reasonable—especially during the current crisis—to interpret “classroom” as “the place where the students and teachers are engaging in instruction and learning.” For the past year, students and teachers have been in different locations much more than normal, and have relied upon the Internet to establish virtual classrooms. A cramped reading of the Act that fails to reflect the realities of how education has been and is being delivered thwarts the goals of the E-rate program. In the context of the COVID-19 crisis, homes are very often the only classrooms available while schools are closed. The Commission has the authority to, and should, define the term “classroom” broadly enough to permit E-rate support for off-campus services during the pandemic.

The Petitioners also note that defining “classroom” narrowly in the face of COVID-19 would be inconsistent with actions the Commission has taken with respect to the Rural Healthcare (RHC) Program. The Commission has already concluded that it has the authority under section 254(h)(2)(A) of the Act to extend universal service funding to patients outside of healthcare facilities through its Connected Care Pilot Program.⁶⁸ The Commission concluded in the *Connected Care Pilot Program Order* that it had “broad discretion” to expand RHC support to cover broadband connections for patient use *in their homes*.⁶⁹ As a matter of statutory

⁶⁸ *Connected Care Pilot Program Order*; 47 U.S.C. § 254(h)(1)(A).

⁶⁹ *Connected Care Pilot Program Order*, 35 FCC Rcd at 3419 ¶ 90.

construction, there is no reason why the language of section 254(h)(2)(A) would support such an expansion for rural health care, but section 254(h)(2)(B) would not do the same for schools. If the Commission has the authority to allow RHC funding to support broadband connectivity to patients' homes, there is no reason why it would not have the same authority to allow E-rate funding to support broadband connectivity to students' homes. In addition, the policy justification the Commission cited for the Connected Care Pilot Program—including access to health care and “growing evidence” of the benefits of telemedicine for both health care providers and their patients—mirror the policy considerations that support expanding E-rate services to students during the pandemic.⁷⁰

In addition, the Communications Act explicitly gives the Commission discretion to add “special services” for schools from time to time, as needed. Section 254(c)(3) states:

In addition to the services included in the definition of universal service under paragraph (1), the Commission may designate additional services for such support mechanisms for schools, libraries, and health care providers for the purposes of subsection (h).⁷¹

This authority reflects a recognition by Congress that the technology needs of schools and libraries are constantly evolving in light of “advances in telecommunications and information technologies and services.”⁷² Moreover, Congress gave the Commission “specific authority to alter the definition [of services] from time to time, and to provide a different definition for

⁷⁰ *See id.* The Commission explained that “there is growing evidence of the benefits of connected care services both for health care providers and their patients,” and that “the costs of broadband Internet access service for patient use in their homes of mobile locations . . . are an obstacle for certain health care providers and their patients.” *Id.*

⁷¹ 47 U.S.C. § 254(c)(3).

⁷² 47 U.S.C. § 254(c)(1).

schools, libraries, and health care facilities.”⁷³ Certainly, during this period of school closures, there are few things more “essential to education” than Internet access for students and teachers.

In short, granting the requested declaratory ruling and the associated relief requested above is within the Commission’s legal authority under section 254 of the Act. These actions would also, as described above, be consistent with prior Commission actions relating to off-campus use of E-rate-supported services (as well as services supported by the RHC Program).

B. The Bureau Can Grant the Requested Relief on Delegated Authority

In light of the precedent discussed above, and the fact that the requested relief is only temporary, the Wireline Competition Bureau could grant the requested declaratory ruling and all of the associated relief requested in this Petition on delegated authority. The Commission’s rules authorize the Bureau to act in non-hearing matters and proceedings, unless the request presents “novel questions of fact, law or policy which cannot be resolved under outstanding precedents and guidelines.”⁷⁴ No aspect of the relief requested in this Petition is novel. The Commission has repeatedly concluded that off-campus equipment and services (bookmobiles, wireless access for drivers and teachers on school buses, the Learning on the Go pilot program) may be used for educational purposes and thus be eligible for E-rate support.⁷⁵ The Bureau has previously directed USAC to use reserved funds during a specific funding year.⁷⁶ Only a few months ago, the Bureau directed USAC to open a new funding window, and USAC has the authority to open

⁷³ Joint Explanatory Statement of the Committee of Conference, Telecommunications Act of 1996, Report 104-458, 110 Stat. 56, 104th Cong., 2d Sess. at 131 (Jan. 31, 1996), *available at* <https://www.congress.gov/104/crpt/hrpt458/CRPT-104hrpt458.pdf>.

⁷⁴ 47 C.F.R. §§ 0.201, 0.204, 0.291.

⁷⁵ *See supra* pp. 9-10.

⁷⁶ *See Funds for Learning Order*, 26 FCC Rcd at 11145 ¶ 1.

a new window on its own, pursuant to Commission rules.⁷⁷ And of course the Bureau has already issued temporary, emergency waivers since the pandemic started, as discussed above, and could do the same here.⁷⁸

Furthermore, while not necessary for the Bureau to address the requested actions, the Commission has specifically delegated authority to the Bureau to revise E-rate rules—in two separate orders—regarding any of the issues addressed in both E-rate Modernization orders.⁷⁹ The delegation included “addressing any omissions or oversights” and noted that any entity that disagrees with a decision of the Bureau may seek review of that decision by the full Commission.⁸⁰ The Petitioners stress that we are not seeking any rule changes, but we believe that these orders’ language demonstrates that the Commission had full confidence in the Bureau to further its goals for the E-rate program.

Commission rules also allow the Bureau to establish deadlines for comments on petitions for declaratory rulings.⁸¹ Given the emergency nature of this request, the Petitioners respectfully ask that the Bureau set an expedited comment period of 14 days from the date of the Public

⁷⁷ See *September 2020 Application Window Order*, 35 FCC Rcd 10347, 10351 ¶ 13; 47 C.F.R. § 54.507(c) (“The Administrator may implement such additional filing periods as it deems necessary.”).

⁷⁸ See, e.g., *COVID-19 Gift Rule Waiver Order*, 35 FCC Rcd 2741; *Rural Health Care Support Mechanism*, WC Docket No. 02-60, 35 FCC Rcd 2922 (Wireline Comp. Bur. 2020) (waiving RHC program deadlines due to the COVID-19 pandemic).

⁷⁹ *Modernizing the E-rate Program for Schools and Libraries; Connect America Fund*, WC Docket Nos. 13-184, 10-90, 29 FCC Rcd 15538, 15603 ¶ 164 (2014) (*Second E-rate Modernization Order*); *First E-rate Modernization Order*, 29 FCC Rcd at 8975 ¶ 265.

⁸⁰ *Second E-rate Modernization Order*, 29 FCC Rcd at 15603 ¶ 164; *First E-rate Modernization Order*, 29 FCC Rcd at 8975 ¶ 265. The Commission also noted that any entity that disagrees with a decision of the Bureau may seek review of that decision by the full Commission.

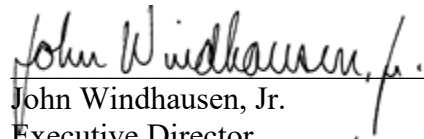
⁸¹ 47 C.F.R. § 1.2(b).

Notice, consistent with the comment period recently established for the second round of the Commission's COVID-19 telehealth program.⁸²

VI. CONCLUSION

For the foregoing reasons, the Petitioners respectfully ask that the Commission issue the requested declaratory ruling, authorize the use of reserved E-rate funds, grant the requested waivers as necessary, and direct USAC to open a new application window in order to expand broadband access and support remote learning during the COVID-19 pandemic. The Petitioners respectfully ask that the Commission treat this as an emergency request for the reasons explained above and grant the requested relief on an expedited basis.

Respectfully submitted,



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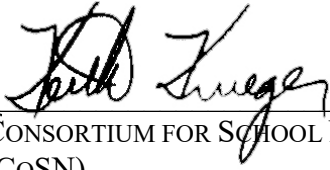


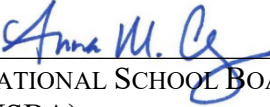
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⁸² *Wireline Competition Bureau Seeks Comment on COVID-19 Telehealth Program Application Evaluation Metrics*, WC Docket No. 20-89, Public Notice, DA 21-14 (rel. Jan. 6, 2021).

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