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

In the Matter of )  
Modernizing the E-rate ) WC Docket No. 13-184  
Program for Schools and Libraries )

**Reply Comments on  
Petition for Reconsideration of the State E-Rate Coordinators' Alliance  
Regarding Shared NIF Equipment Cost Allocation Requirement**

**Report and Order Released on December 3, 2019; FCC Order 19-117**

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All parties that have commented on the State E-Rate Coordinators' Alliance ("SECA")'s Petition for Reconsideration support the requested relief. The Petition narrowly focused on lifting the requirement to perform a cost allocation and deduct a NIF's portion of shared network equipment costs. Comments supporting the Petition were submitted by nine (9) parties; no party has filed in opposition to the request.<sup>1</sup>

The following parties have filed in support of the relief requested:

1. ADS Advanced Data Services, Inc. (filed February 7, 2020)  
(<https://www.fcc.gov/ecfs/filing/10207618817167>)
2. AdTec, Inc. (filed February 5, 2020)  
(<https://www.fcc.gov/ecfs/filing/10205185941095>)
3. American Library Association (filed February 14, 2020)  
(<https://www.fcc.gov/ecfs/filing/10214248851502>)
4. CSM Consulting, Inc. (filed February 21, 2020)

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<sup>1</sup> All supporting comments were submitted soon after the Petition for Reconsideration was filed and prior to the formal comment cycle being set pursuant to the Federal Register legal notice published in 85 F.R. 16605 (March 24, 2020).

- <https://www.fcc.gov/ecfs/filing/1022143152949>)
5. Florida E-rate Team (filed February 5, 2020)  
<https://www.fcc.gov/ecfs/filing/102052137607928>)
  6. Funds For Learning, LLC (filed February 11, 2020)  
<https://www.fcc.gov/ecfs/filing/102100177304734>)
  7. Iowa Department of Education (filed February 5, 2020)  
<https://www.fcc.gov/ecfs/filing/10205626130704>)
  8. New Mexico Public Education Department (filed February 5, 2020)  
<https://www.fcc.gov/ecfs/filing/1020581307889>)
  9. West Virginia Department of Education (filed February 5, 2020)  
<https://www.fcc.gov/ecfs/filing/10205035572849>)

In the original Petition, SECA noted that the record underlying the adoption of the Category Two Order contained overwhelming support for allowing schools and libraries to utilize their Category 2 funding for NIFs' site-specific equipment. SECA also explained in detail, citing to Commission precedent, its rationale for why NIFs meet the educational purpose prerequisite for qualifying for E-rate funding. However, in order to strike a balance, SECA did not request that site-specific NIF equipment be permitted to qualify for Category 2 funding.<sup>2</sup>

The SECA Petition for Reconsideration was filed on January 21, 2020, well before the national COVID-19 emergency occurred. A lot has changed in the last three months. In light of the COVID-19 emergency, schools nationwide have converted most, if not all, of their curricula to be online-based, thus making Internet the single most essential service being utilized by schools. By all indications, we expect that off-campus, home-based education will continue into the next school year.

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<sup>2</sup> The supporting Comments submitted by both Funds for Learning, LLC and CSM Consulting, Inc. specifically requested that Category 2 funding for site-specific NIF equipment be eligible.

The lynchpin for remote learning is the network hub of each school or district, where students and teacher must access their online lessons. Whereas the original intention of directing Priority 2 funding was to ensure that physical classrooms in physical school buildings would have robust Internet connectivity, this paradigm does not stand up when most learning is occurring remotely. Internet-based curriculum and learning is not being delivered in school buildings but instead is being delivered to students' homes, with students and teachers logging into their online lessons which often is situated in a separate non-instructional facility such as a data center. These NIFs serve a vital educational purpose that is even more important than school buildings during the national COVID-19 emergency.

The pandemic has provided much-needed clarity to the essential, education-delivery functions of non-instructional facilities. There simply is no plausible reason serving the public interest that SECA can identify to perpetuate the prohibition against NIFs receiving Category Two funding for site-specific or shared network equipment. Indeed, a close examination of the Category Two Order indicates that the Commission offered no reason why it refused to modify its rules. All that was said in the Order is as follows:

In response to the 2019 Category Two Notice, commenters agreed that cost allocation of the use of shared equipment is burdensome, and requested that the Commission allow all buildings associated within a district or library system, including non-instructional facilities, to qualify for category two funding support because the category two budget places a ceiling on the amount that can be spent on category two services. We decline to modify our rules regarding whether non-instructional facilities or the administrative buildings of libraries qualify for category two funding support.<sup>3</sup>

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<sup>3</sup> Category Two Order at ¶ 51 (footnotes omitted).

The paragraph then went on to explain why the *cost allocation requirement* would remain in place, but there was no discussion as to why the *site-specific restriction* precluding NIFs from qualifying for Category Two funding would continue in place.

SECA submits that the Commission should remove entirely the limitation against allowing NIFs to qualify for Category Two funding. The twin guardrails of the Category Two budget cap and the requirement to pay a non-discounted share of the network equipment costs will ensure that Category Two funding is used responsibly by school officials throughout their district, including NIFs. The definition of educational purpose adopted for allowing Category One funding to be directed to these buildings is equally applicable to Category Two funding. The time has come to remove this holdover restriction that pre-dated the Category Two budget program.

### **Conclusion**

The State E-rate Coordinators' Alliance respectfully requests the Federal Communications Commission to reconsider its decision and allow NIFs to qualify fully for Category Two funding, and at the very least, not require a cost allocation for the NIF's usage of shared network equipment.

Respectfully submitted,



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