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

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| In the Matter of | **)** | |
| | **)** | |
| Addressing the Homework Gap through the | **)** | WC Docket No. 21-31 |
| E-Rate Program | **)** | |

**COMMENTS OF THE STATE E-RATE COORDINATORS' ALLIANCE**
**TO THE NOTICE OF PROPOSED RULEMAKING (FCC 23-91)**

# I. SUMMARY

The State E-rate Coordinators' Alliance ("SECA")[1] concurs with the Federal Communications Commission ("FCC" or "Commission") that online access to the Internet is integral to meeting students' educational needs. We believe that the "homework gap" is part of the larger challenge of facilitating the availability of affordable internet connectivity at home for all economically disadvantaged citizens and not just school children. We respectfully suggest this issue should continue to be addressed holistically for all citizens, rather than using the E-rate program to earmark off-campus wireless Internet service just for students.

Most importantly, SECA believes that the Affordable Connectivity Program (ACP) should continue to be the preferred universal service program to fund off-campus Internet connectivity for economically disadvantaged students and also allow other family members to benefit from and use the Internet.. In contrast, the E-rate program necessarily would have to restrict Wi-Fi service usage by the student in the household for their educational needs.[2]

We are encouraged by the prospect of additional funding that has been proposed by Congress to continue the ACP Program. Should Congress not appropriate additional funding, however, we urge the FCC to augment the existing Lifeline Program to take the lead for affordably connecting families, including K-12 students, in need to broadband Internet.

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[1] SECA is a non-profit organization and serves as a network of State E-rate Coordinators who are designated by their respective States or U.S. Territories to provide E-rate support and assistance to their States' school applicants and to communicate with the E-rate program administrator and other organizations such as the FCC as an official State representative. Currently our 82 members represent 41 states and two U.S. territories. Some of our members also provide support to library applicants in addition to supporting school applicants.

[2] Parents and legal guardians may have pressing needs for Internet access at home, such as: applying for employment, fulfilling their own educational and vocational requirements, developing and learning new skills, accessing health care and social services, and a myriad of other reasons.

Only if the ACP program expires, and if the Lifeline program is not reformed to offer affordable Internet to economically disadvantaged families, for all family members to use including K-12 students, then SECA believes that the Commission should proceed with the Notice of Proposed Rulemaking ("NPRM") to add off-campus hotspot internet connectivity to the E-rate program, subject to adopting the specific safeguards and measures we recommend in these Initial Comments.

- The original conception of this initiative was to implement it as a loan program by public libraries and school libraries, a vision with which SECA agrees. E-rate cannot afford to provide a hotspot and Wi-Fi service to every student, or even to every economically disadvantaged student.

- The addition of off-campus wireless Internet to the E-rate program should begin ***no earlier than the FY 2025 program year.*** There is no emergency that must be addressed through more urgent action, such as when the ECF program was established during the pandemic. There needs to be sufficient time for the FCC to establish the applicable parameters in a Report and Order, add the equipment and service to the Eligible Services List, and for applicants and service providers to educate themselves to ensure compliance.

- All program requirements, including documentation and recordkeeping for supporting funding requests and reimbursement requests should be proactively established in the enabling regulations, well in advance of the bidding window which is the fall prior to the start of the funding year.

- E-rate funding of off-campus hotspots should be allocated under a new Category 3 that has the same or similar parameters as Category 1 but would be funded as a third priority after all on-campus funding requests for Category 1 and Category 2 are met.

- The E-rate program should not be used to fund the build-out of wireless internet facilities in areas that do not currently have sufficient access. There are other federal funding resources available to meet this need which is a community-wide issue that goes well beyond the online educational needs of elementary and secondary students when they are off-campus.

- Schools and libraries should be given the discretion to establish their own parameters for Wi-Fi hotspot equipment and services to loan to patrons and students. Minimum speeds of service and other technical parameters should be left to the discretion of applicants and not be specifically prescribed because they may vary according to geographic location.

- Schools must ***not*** be held financially responsible for monthly charges where there is no usage of an E-rate supported hotspot device, provided that the device and service were activated and available for students to borrow.

- Protections should be established to ensure that there is no duplication of funding, that the student and legal guardian affirms there is a need to borrow the hotspot to be used only by students in grades 1 and higher for educational purposes.

## II. ELIGIBILITY CONDITIONS AND RESTRICTIONS

### A. Off-Campus Wireless Internet Should Be Funded Only After All On-Campus Service and Equipment Requests Are Funded.

SECA concurs with the FCC's proposed hot spot definition for stand-alone devices. The simplest approach for defining which devices quality for funding will provide clear guidance to stakeholders.[3]

SECA believes the biggest challenge for this initiative is to manage the financial impact on E-rate demand. At the same time the Commission is considering this measure, bus Wi-Fi equipment and services have been made eligible, and there is an urgent need for E-rate funding for cybersecurity protections for schools and libraries. These three initiatives must be considered and not in a vacuum; otherwise, the need for cybersecurity funding may continue to be unaddressed, due to lack of available funds. We want to make sure there is still headroom to address this pressing need as soon as possible.

According to the National Center for Education Statistics, the American Community Survey, in 2021, the most recent year for which data is available, reports that approximately 7% of elementary and secondary students do not have internet available at home through the use of a computer.[4] There were 50 million elementary and secondary students in grades 1 through 12 in 2021.[5] The 7% of students lacking internet at home equate to approximately

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[3] We considered the possibility of whether funding should be made available for service plans for laptops and other devices that have built-in air cards, but we are concerned this would encourage the use of E-rate funding to pay for off-campus internet on all school-owned devices, rather than focusing resources to meet the needs of only those students lacking internet connectivity at home. Consequently SECA does not recommend expanding the definition of hotspot to include aircards or Wi-Fi service for individual laptops or tablets,.

[4] National Center for Education Statistics. (2023). Children's Internet Access at Home. Condition of Education. U.S. Department of Education, Institute of Education Sciences. Retrieved January 15, 2024 from https://nces.ed.gov/programs/coe/indicator/cch. Four percent of students have internet access via a Smartphone and three percent of students have no Internet at home.

[5] 2021 American Community Survey 1-Year Estimates Data Profiles, https://data.census.gov/table/ACSDP1Y2021.DP02?tid=ACSDP5Y2021.DP02

3.5 million students.  Our experience is that the monthly service costs around $25 per month

inclusive of taxes or $300.00 per year, pre-discount.  Applying the average E-rate discount

percentage of 71%, the annual service cost to provide off-campus wireless internet to these

3.5 million students amounts to $745 million.  Alternatively focusing only on economically

disadvantaged students with internet at home, the annual demand is estimated to be $447

million, still a very significant amount.[6]  Neither of these amounts includes any E-rate

funding for the additional equipment costs of the hotspot devices themselves.

This initiative clearly has the potential to increase overall funding demand to exceed

the annual funding cap and trigger funding reductions for other services and equipment.

Measures need to be instituted now to ensure this will not be allowed to happen.

On-campus connectivity – the mainstay of the E-rate program's Category 1 and 2

services and equipment -- should continue to be E-rate's core mission.  Off-campus

connectivity, while beneficial, cannot be funded at the expense of on-campus connectivity

funding.[7]  We believe these financial concerns must be paramount when considering how to

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[6] Focusing only on economically disadvantaged students without internet at home available
through a computer (not relying on a Smartphone), there were 14 million children ages 5 – 17
living at or below 150% of the federal poverty guidelines in 2021
https://www.census.gov/data/tables/time-series/demo/income-poverty/cps-pov/pov-
01.2021.html#par_textimage_24, POV01-Age and Sex of All People, Family Members and
Unrelated Individuals: 2021.   Of that amount, 15% lacked home internet access through a
desktop, laptop, tablet, or other portable wireless computer internet at home, in 2021.
https://nces.ed.gov/programs/digest/d22/tables/dt22_702.60.asp

The potential impact on the E-rate program to fund Wi-Fi service for economically
disadvantaged students without adequate internet at home is, therefore, estimate to be 14
million economically disadvantaged students x 15% lacking internet at home x $300 per year
Wi-Fi service x 71% average E-rate discount percentage = $447.3 million in E-rate funding
demand for Wi-Fi service and not including the costs of funding the purchase of hotspot
devices.

[7] SECA agrees the Commission has the authority under Sections 254(H)(1)(b) and
254(H)(2)(A) to designate off-campus Wi-Fi hotspot service and equipment used for
educational purposes to be eligible for E-rate when the funding is requested and provided to
schools and libraries.  Specifically, we agree that the off-premises use of mobile wireless
services and the Wi-Fi hotspots needed to deliver such connectivity may be integral,

proceed with this NPRM.  Using existing on-campus facilities and allowing them to be used

by students when off-campus to meet their educational needs may be a more cost-effective

solution than equipping these students with hotspots and Wi-Fi service.  Likewise, there

simply is not sufficient funding to pay for any kind of buildout of facilities in communities

that lack adequate Wi-Fi service.[8]

We suggest that the off-campus Internet connectivity requests should be categorized

as a new Category 3 and incorporated into the rules of priority.  All funding requests for

Categories 1 and 2 should be fully funded, and the remaining funding authorization up to the

annual cap (plus any carryover funds from prior years) should be allocated to funding

Category 3 off campus Internet connectivity.  If Category 3 demand exceeds available

funding, the rules of priority should be invoked to issue funding commitments.

Since the nationwide demand on the E-rate program for off-campus wireless internet

is unknown at this time, setting up this framework now will ensure the preservation of on-

campus funding as the highest priority.  Off-campus funding should not be permitted to

eclipse the needs of applicants for the E-rate eligible on-campus equipment and services used

to provide sufficient Internet access service.

### B. Duplicate Funding of Hotspot Devices And/Or Off-Campus Wi-Fi Service Through E-rate And Other Universal Service Programs Should Be Prohibited And Other Measures To Safeguard The Use of The Devices Should Be Enacted.

The measures suggested in the NPRM to curtail any duplicate funding of hotspots

and/or Wi-Fi service should be adopted, such as prohibiting the use of E-rate funds to replace

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immediate, and proximate to the education of students *but only when students do not have sufficient Internet access service at home to meet their educational needs.*  It is not the obligation of the E-rate program to provide a hotspot and mobile wireless Internet service to every K-12 student.

[8] Other universal service programs and federal funding sources are better suited to address infrastructure needs in areas that need broadband internet access.

an ECF-funded hotspot until the original hotspot has been in use for at least three years. Also, students whose families receive support for Internet at home through ACP or other similar state or federal initiative should not be eligible for being loaned an E-rate funded hotspot unless there are extenuating circumstances where the internet service at home is not available to the student.

To reduce potential loss and/or damage to devices, young learners, in pre-kindergarten and kindergarten, should not be eligible to use a school-owned hotspot when they are off-campus. This limitation may help curb lost and damaged devices. The hotspots generally should be made available only for students in grades where they are required to access the Internet off-campus for their homework and for other educational purposes.

### C. Applicants Should Have Discretion To Establish Their Hotspot Lending Programs And Restrictive Requirements Unique To Off-Campus Hot Spots Should Not Be Prescribed.

Successful implementation of E-rate funding for off-campus Wi-Fi hotspot equipment and service will require applicants to address the unique needs of the students or library patrons they serve. This flexibility is a hallmark of the E-rate program that allows applicants to determine their technology needs and how best to meet them. Using the competitive bidding cornerstone of the program, applicants will receive proposals and select the most cost-effective solution that best meets their needs. Off-campus hotspot equipment and service is no different than any other E-rate equipment and/or service and should be subject to the same framework.

SECA encourages the Commission to refrain from adopting a stringent "need" evidentiary requirement that was adopted for the ECF program. The ECF program provided 100% reimbursement of the reasonable costs of hotspot equipment and service, and did not require competitive bidding. The program was also designed to meet the long-term off-

campus learning needs of students during the sustained period when schools were closed due to the COVID-19 pandemic.

In contrast to the mechanics and circumstances underlying the ECF program, the existing E-rate program requirements are sufficient to govern Wi-Fi hotspot equipment and services funding requests. Additional more stringent measures that are specific to off-campus hotspot and Wi-Fi service like those imposed in ECF to justify the number of devices and service plans in funding requests should not be mandated. The premise of the E-rate program applies equally to these funding requests: schools and libraries are responsible for paying the non-discounted share of these costs which serves as a built-in incentive to control their costs and to request funding only for those services and equipment they anticipate will be necessary to meet their needs.

Specifically, schools may wish to, *but should not be compelled to,* conduct surveys of student families to determine which students do not have sufficient internet connectivity at home. Surveys should not be required either to support funding applications or reimbursement requests. By now, having acquired several years of off-campus and hybrid learning experience, schools have a good sense of this ongoing need – whether or not they met this need through ECF-funded hotspots and from other funding sources. There should not be a more intensive scrutiny of the quantity of their funding requests than the analysis of any other services and equipment funding requests.

When students are loaned an E-rate funded hotspot for off-campus educational purposes, it is logical *at that time* to require certain certifications or attestations to ensure that the use of the hotspot is in fact integral, immediate and proximate to the student's education as follows:

- The student and legal guardian should be required to certify that the student needs the hotspot and Wi-Fi service to use off-campus to meet the student's educational needs.

- The student and legal guardian should also confirm i that the student will use the device only for educational purposes and will return the device at the designated due date or earlier, if the hotspot is no longer needed.

- The student's legal guardian should also be required to acknowledge in writing that other members of the household are not allowed to use the device; and,

- The student's legal guardian should certify that the household is not receiving financial support for subsidized internet at home, or if they are, why the internet connection at home is not sufficient to meet the student's educational needs.[9]

SECA believes that these certifications could be incorporated into schools' existing procedures such as incorporating them into the schools' acceptable use policies that students and their guardians must sign annually. The acceptable use policy may be modified to include checkboxes for these additional certifications. Alternatively, schools may decide to create a separate form that is specific to the loan of hotspots for off-campus use, for students and their legal guardians to complete when the student is loaned the hotspot device.

This documentation should be sufficient to verify schools' compliance with program requirements but should not be required to be collected or validated at the time of submission of a FCC Form 471 application. Again, schools should be allowed to rely on their good faith estimate of the quantity of hotspots and Wi-Fi service plans that are needed to support their students' online educational activities while off-campus.

### D. The Commission Should Set Forth All Regulatory Requirements for Off-Campus Hotspot Lending Before The Eligibility Becomes Effective.

SECA respectfully encourages the Commission to address all of the regulatory requirements for off-campus hotspot service and equipment in the Report and Order that may be issued following the receipt of comments and replies to comments to the NPRM. The Commission should refrain from adding new requirements after the fact. Unlike the

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[9] The certifications and signatures may be collected electronically or on paper.

establishment of the ECF program there is no emergency today that requires hasty deployment.

The permanent establishment of off-campus hotspots and Wi-Fi service should be developed after thorough review of the parties' comments, and comprehensive consideration of all aspects of compliance, starting with eligibility and bidding, next proceeding to the form 471 funding application process, then considering reimbursement matters (both BEARs and SPIs) to post-commitment changes and then finally to audits. The Commission can apply the knowledge and experience of off-campus hotspots and Wi-Fi service from the ECF program to the E-rate program and can avoid imposing additional documentation and regulatory requirements after the fact. Unfortunately, some ECF applicants found themselves in difficult situations where they unknowingly did not have newly required documentation that was infeasible or impractical to obtain the information after the fact. This situation has put applicants at risk for reimbursement denials, and incurring unanticipated costs that were owed to the vendors for the associated charges, and adverse audit findings that raise the prospect of post-disbursement recoupment demands. SECA encourages the FCC to undertake comprehensive implementation of this initiative up-front before eligibility goes into effect.

### E. Applicants Should Not Be The Financial Guarantors Of All Hotspot Monthly Charges For Which The Service Was Not Used.

The Commission should *not* mandate that the monthly usage of service is a prerequisite for reimbursement of service charges. This issue is a big concern in the ECF program with respect to hotspot monthly service charges for Wi-Fi access. The FCC's guidance on this topic has created concern and confusion among applicants. Some of the FCC's and USAC's guidance has suggested that but for summer break and sick days, it is expected that the devices must be used, and not just activated and in-service, to be able to seek ECF reimbursements. This seems to state that when there is no usage recorded on an

activated, in-service school-owned device or plan (as opposed to a library owned device), reimbursement of the monthly charges would be in violation of the non-usage certification.[10]

Wi-Fi service is typically offered on a contract, not a month-to-month basis, for one year or multiple years. Service charges are imposed monthly. This includes summer months when students are far less likely to have educational needs for off-campus hotspots. Further, even during the school year, there may be times when hotspots are not used each month for many different reasons. A list of non-exhaustive examples includes:

- Schools that establish a loan program for hotspots, like libraries, may not have all activated hotspots on loan in any given month.

- Students who receive a school-owned hotspot may be ill and unable to use the hotspot service for educational purposes while the hotspot is on loan to them.

- Students' anticipated needs may have changed since they were loaned a hotspot, and they were able to complete their online educational assignments while in the school building.

- The hotspot may not work in the geographic area in which the student was trying to use the service off-campus.

The underlying premise of the non-usage requirement appears to equate non-use with waste, which we submit is misguided. In each scenario listed above, service was activated in good faith based on the anticipated needs of the student body. Schools should not be penalized by having to pay for the full monthly cost whenever the projected needs did not match actual needs. Yet this 100% accuracy requirement is the *de facto* standard inherent in a policy that prohibits the reimbursement for service in those months where there is no usage.

SECA offers the following parameters to achieve a reasonable and balanced approach:

1. Like ECF, monthly charges for activated Wi-Fi hotspots during summer months are permissible to be reimbursed.

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[10] See ECF FAQ 9.12 and 9.12a, which have been subjected to differing interpretations by service providers and applicants. Some vendors using the SPI billing method will not submit for any reimbursements of monthly charges when there is no usage on the plan, and automatically charges the school for these billed amounts.
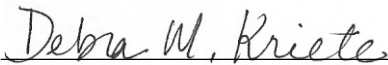
2. Like all E-rate funding requests, schools should base their E-rate funding requests on historical experience or the anticipated need of devices and service plans for meeting students' off-campus connectivity needs for educational purposes. All monthly service charges should be eligible for reimbursement.

3. Hotspot service must be activated and available for loans to students during the funding year and for any months associated with requested reimbursements without having to demonstrate monthly usage for each device.

4. The Commission should mandate or strongly encourage service providers to allow for cancellation or suspension of service without requiring early termination charges. This would allow schools to more easily suspend or cancel service and avoid incurring associated charges when their records show sustained periods of non-usage.

These parameters, along with the other measures and conditions recommended above, will ensure that E-rate funds will be used cost-effectively and efficiently for meeting the off-campus Internet connectivity needs of students for educational purposes.


## III. CONCLUSION

The State E-rate Coordinators' Alliance appreciates the opportunity to submit these recommendations and requests the Commission to adopt a Report and Order consistent with these Initial Comments.


Respectfully submitted,

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