

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

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

**REPLY COMMENTS OF THE NATIONAL SCHOOL BOARDS ASSOCIATION
(NSBA) REGARDING THE EMERGENCY CONNECTIVITY FUND FOR
EDUCATIONAL CONNECTIONS AND DEVICES TO ADDRESS THE HOMEWORK
GAP DURING THE PANDEMIC**

TABLE OF CONTENTS

- I. INTRODUCTION AND SUMMARY**
- II. ABOUT THE NATIONAL SCHOOL BOARDS ASSOCIATION**
- III. SCHOOL DISTRICTS NEED FLEXIBILITY TO CONNECT STUDENTS**
- IV. A BUDGET CAPS SYSTEM, MODELED AFTER THE SUCCESSFUL E-RATE CATEGORY 2 APPROACH, SHOULD GUIDE THE ECF'S DISTRIBUTION**
- V. DISTRIBUTION SHOULD CONSIDER THE HARDEST HIT POPULATIONS**
- VI. NO ADDITIONAL CIPA RULES OR REGULATIONS SHOULD BE ISSUED**
- VII. CONCLUSION**

I. INTRODUCTION AND SUMMARY

Since the COVID-19 pandemic forced school buildings across the nation to close in March 2020 and the vast majority of public school students to begin learning online full-time, the National School Boards Association (NSBA) began aggressively calling on Congress and the Federal Communications Commission (Commission) to take action to help educators and the millions of students who lack the connectivity, devices, or both to adequately work remotely during the pandemic. This digital divide in education, commonly called the Homework Gap, is a major equity issue preventing many students from receiving the excellent education they deserve. It is a situation that has existed long before the school building shutdowns occurred, but the pandemic has shone a bright light on the expanse and depth of this problem.

From the beginning of NSBA's efforts to advocate for measures to help close the Homework Gap during the pandemic, NSBA recommended that any approved emergency funding run through the Schools and Libraries Program (E-Rate) and utilize the existing rules and procedures of E-Rate whenever feasible. While calling on Congress and the administration to take immediate action, NSBA also called on the Commission to use its authority to designate that since classrooms had moved from brick-and-mortar school buildings to fully online that any E-Rate unallocated funds could and should be used to be distributed to help alleviate the Homework Gap for the short-term emergency.

In December of 2020, NSBA released its transition recommendations for the incoming Biden/Harris Administration and called for immediate focus on closing the Homework Gap, both short-term during the pandemic, and in a sustained effort to close it long-term.¹ On January 26, 2021, NSBA joined a petition with the Schools, Health, & Libraries Broadband (SHLB) Coalition and seven other education groups (Petitioners) calling for the Commission to issue an expedited declaratory ruling and waivers allowing the use of E-Rate funds for remote learning during the emergency caused by the COVID-19 pandemic.² NSBA was pleased when the Commission called for public comments in reaction to the petition and others making similar requests. That was an important step to begin helping students impacted by the Homework Gap during the pandemic.

When the American Rescue Plan (ARP) became law on March 11, 2021, it was an important step forward for millions of public school students who are desperate to receive assistance to connect to the Internet like their peers to help them with their learning. The \$7.171 billion made

¹ Transition Recommendations, National School Boards Association. Accessed April 22, 2021. Available at <file:///C:/Users/CSlaven/OneDrive%20-%20NSBA/NSBA%20Transition%20Recommendations.pdf>.

² Petition for Expedited Declaratory Ruling and Waivers filed by the Schools, Health & Libraries Broadband Coalition, et al., WC Docket No. 13-184 (filed Jan. 26, 2021), <https://www.fcc.gov/ecfs/filing/101260036427898> (SHLB Petition). The Petitioners include the Schools, Health and Libraries Association (SHLB), National School Boards Association (NSBA), American Library Association (ALA), Consortium for School Networking (CoSN), State Education Technology Directors Association (SETDA), State E-rate Coordinators Alliance (SECA), Urban Libraries Council (ULC), Wireless Futures Project Open Technology institute at New America, and the Wisconsin Department of Public Instruction.

available in the ARP to provide short-term emergency assistance for the Homework Gap will provide some relief to those students while the nation continues to grapple with the emergency created by COVID-19.

NSBA and local school board members across the nation appreciate the efforts of Congress, the Biden Administration, and the Commission for the steps undertaken thus far to deal with this situation. The Emergency Connectivity Fund (ECF) created through the ARP is one of the most important developments for public schools during this difficult time. It is crucial that the Commission distribute the funds in an expedient manner that can connect the largest number of students, particularly those traditionally systemically underserved, in a flexible, equitable, and transparent manner. NSBA applauds the Commission for undertaking these steps to hear from the public on the best manner to distribute the funds and appreciates this opportunity to speak to the process.

II. ABOUT THE NATIONAL SCHOOL BOARDS ASSOCIATION

The National School Boards Association (NSBA) is a federation of state associations and the U.S. territory of the Virgin Islands and the more than 90,000 local school board members that serve approximately 50 million public school students regardless of their disability, ethnicity, socio-economic status, or citizenship. NSBA works with and through the state association members advocating for equity and excellence in public education through school board leadership.

NSBA believes that public education is a civil right necessary to the dignity and freedom of the American people and that each child deserves equitable access to an education that maximizes their individual potential. In pursuit of these beliefs, NSBA will continue to lead the national conversation about public education, advocate for public policies that ensure each student everywhere has access to an excellent public education where they live, create a better understanding of the importance of school boards and the benefits of local governance, and enhance the effectiveness of school boards.

III. SCHOOL DISTRICTS NEED FLEXIBILITY TO CONNECT STUDENTS

During the pandemic, local school districts across the nation under the leadership of their governing school board members, have been implementing innovative approaches to connect the students of their local communities during this extraordinary time. The dedication of public school teachers and other educators to do whatever it takes to ensure that each student receives an excellent education during this time has been heroic. For the distribution of the funds under the ECF to be successful and cover the greatest number of vulnerable students, it is important that local school districts be given the flexibility under the rules to enact plans that will work best in their local community. As the California School Boards Association and the Association of California School Administrators illustrated in their comments:

School district leaders best understand their students' connectivity and device needs for remote learning. Congress recognized that districts require remote learning assistance covering both devices and connectivity and wisely provided flexibility in the ECF for

program participants to decide the combination of devices and connectivity that would be most helpful for their students.³

NSBA supports governance of public schools by local boards of education. Providing school districts as much flexibility as possible to make local decisions is vital if the largest number of students are going to be served. It is important that the Commission implement rules and procedures for the distribution of the ECF that is transparent and efficient while giving that flexibility. The ARP has significant flexibility for schools and libraries built into the legislation. The Commission should leverage this flexibility as it develops the distribution method for ECF. Local schools and libraries are well placed to make decisions regarding the most effective technology to employ to help the greatest number of students in their community. NSBA has a strong policy calling for opportunities to help local school districts close the Homework Gap.

Congress and the FCC should close the education technology gap, commonly called “The Homework Gap,” for children in rural and low income communities who lack access to or cannot afford out-of-school technology and digital connectivity needed for academic success and innovative instruction options such as personalized learning that promotes twenty-first century life and work skills.⁴

Due to the diversity of public schools and libraries depending on their geographic region, economic status, and other factors, different solutions and technologies may be required. There is no perfect solution for every situation, rather, schools and libraries should be afforded a suite of options that can be used to best fit their individual needs. The Commission should offer a wide range of technology and tools to meet the intent and goals of the ARP.

IV. A BUDGET CAPS SYSTEM, MODELED AFTER THE SUCCESSFUL E-RATE CATEGORY TWO APPROACH, SHOULD GUIDE THE ECF’S DISTRIBUTION

NSBA called for any pandemic related Homework Gap funding to be run through the E-Rate program and under the oversight of the Commission from the very beginnings of the school building shutdowns. The reason for this recommendation stemmed from the success of the E-Rate program and the familiarity that schools and libraries have with the program, including the predictable, understandable, and efficient nature of E-Rate Category 2. Category 2 provides a well-understood process that would ease the ECF application process during a time when school district leaders and staff face the many competing administrative demands caused by the pandemic. Thus, using a budget caps approach modeled after Category 2 will promote participation by the greatest number of school districts and ultimately connect the greatest number of students. While the ECF deviates from the normal E-Rate funding allocations by offering a 100 percent discount, it is up to the Commission to develop a process to ensure the most effective distribution method leading to the best result. NSBA recommends that the

³ Reply Comments of the ACSA-CSBA Federal Partnership Regarding the Emergency Connectivity Fund Established by the American Rescues Plan of 2021. Accessed April 23, 2021,

<https://ecfsapi.fcc.gov/file/104090294403054/ACSA%20CSBA%20Partnership%20ECF%20Comments%20Final.pdf>

⁴ Resolutions of the National School Boards Association. Available at <https://www.nsba.org/-/media/NSBA/File/nsba-resolutions-81420.pdf?la=en&hash=4297ACFA4261EE2EA739F4802E05754DBAA24C56>.

Accessed on April 22, 2021.

Commission use budget caps comparable to those for E-Rate Category 2 funding as it develops the distribution under the ECF.

Providing a fixed amount of funding for schools and libraries will lead to the best results for distribution of the funding while allowing for a good process to eliminate waste, fraud, and abuse. Local school boards are charged with providing oversight of local schools, they should be given the flexibility to ensure that the process in their schools meet the highest standards of accountability and transparency. The Commission should provide special considerations for rural remote and/or high-cost areas or special populations such as Native Americans as the budget cap is developed. The ECP application should be simple and efficient.

V. DISTRIBUTION SHOULD CONSIDER THE HARDEST HIT POPULATIONS

The Commission should consider factors to help the student populations hit hardest by the lack of inadequate broadband and internet access. NSBA recommends that using the Category 2 budget cap is the best way to get the funds out efficiently covering the largest number of students. The Commission should also consider whether some special considerations need to be made to cover specific student populations hit the hardest by the Homework Gap either through the funds available under the ECF, creating a special program for those populations by expanding the use of existing E-Rate funds that have yet been allocated and is currently being considered by the Commission in a separate proceeding, or a combination. NSBA called for the use of those unallocated funds in its joint filing with the SHLB coalition and has consistently made public calls for the definition of “classroom” in references to E-Rate to include a virtual classroom.

NSBA urges the Commission to pay particular attention to comments and reply comments filed by advocates and organizations focused on special populations including Native American, students with disabilities, and civil rights and equity organizations. There must be a thoughtful approach to help meet the need of these special populations. For this reason, NSBA does not recommend putting a cap on individual devices or measures. While general guidelines and suggested price ranges may be helpful, placing a rigid price cap on a device could prevent some innovative solutions from being implemented that may benefit certain students with special circumstances. NSBA believes these decisions should be left to local school districts and they should take every measure to use the funds frugally and transparently while working to connect the largest number of vulnerable students.

To adequately learn in today’s modern world, students need high-speed broadband connectivity, and they need an adequate device like a computer to connect to the Internet. Unfortunately, the lack of Internet access remains a widespread problem across the nation that has been exacerbated during the pandemic. The problem hits students in high poverty and rural areas the hardest. The recent report issued by the Alliance for Excellent Education (All4Ed), National Indian Education Association (NIEA), National Urban League (NUL), and UnidosUS found 16.9 million children lack high-speed broadband access at home.⁵ The report showed that 34% of Native American students, 31% of Latino students, 31% of Black students, 21% of White students, and 12 % of

⁵ Future Ready Schools, “Students of Color Caught in the Homework Gap” (July 2020), available at <https://futureready.org/homework-gap/> (Future Ready Schools Report). Accessed February 23, 2021.

Asian students lacked high-speed Internet access. When it came to a lack of computers, 17% of Black and Latino students, 16 % of Native American students, 8% of White students, and 4% of Asian students do not have a device. Lower income students also have the most pressing access needs. The report showed that 45% of households making less than \$25,000 lacked high-speed Internet access while 29% lacked a computer. In households making \$25,000 to \$50,000 only 29% had high-speed Internet access with 16% without a computer. Even the best of those numbers should be unacceptable if the nation is going to offer an excellent and equitable education to each student.⁶ This inequity calls for immediate action utilizing the ECF created under the ARP, using the current unallocated E-Rate funds to be used to help students work remotely during the pandemic, and it calls for a sustained and committed effort to permanently close the Homework Gap and the digital divide impacting millions of American students and their families.

VI. NO ADDITIONAL CIPA RULES OR REGULATIONS SHOULD BE ISSUED

The Commission has called for comments whether there should be modified rules or regulations regarding the Children’s Internet Protection Act (CIPA) connected to the ECF. Local school boards are committed to protecting their students when they are online and using technology. Schools have existing methods in place to meet CIPA requirements. NSBA recommends that there be no new modified rules or additional regulations to complicate getting these funds out to help connect more students to the Internet. There are some indications that children are more vulnerable online because of the pandemic, but at the present time no expansion of what school districts are currently doing is required to address the issue. While online learning has greatly expanded since the pandemic began, most schools have been dealing with online learning and CIPA compliance.

VII. CONCLUSION

It is imperative that the Commission get these funds out as quickly as possible to help the millions of students impacted by the Homework Gap. The Commission should distribute the funds in an expedient manner that can connect the largest number of students, particularly those traditionally systemically underserved, in a flexible, equitable, and transparent manner.

Perhaps more important, the Commission should focus on the long-term closing of the Homework Gap. NSBA has called on the Commission to focus on this issue for several years. NSBA and all of its 49 state association members filed reply comments in August of 2019 calling on the Commission “to proactively pursue steps that address the digital divide in education. The lack of access to high-speed broadband remains one of the major obstacles standing in the way of a high-quality education for many students.”⁷

NSBA is focused on improving public education and better preparing students for success. Recently, NSBA launched its Public School Transformation Now! initiative focused on improved teaching and learning through instruction and personalized learning focused on access,

⁶ Ibid.

⁷ Reply Comments to the Federal Communications Commission, National School Boards Association et al, Accessed April 23, 2021, <https://www.fcc.gov/ecfs/filing/1082769606228>

National School Boards Association Reply Comments

equity, and innovation.⁸ Closing the Homework Gap is essential to making this public school transformation possible.

Over the course of the last few months numerous advocates and organizations have filed comments in several proceedings regarding closing the Homework Gap. School board members, superintendents, principals, teachers, librarians, education technology experts, student advocates, and others have voiced their opinion on how best to help the millions of students connect to the Internet and close the digital divide in education. While there may be different recommendations proposed how best to meet that goal, the groups universally agree on one primary issue—if millions of American students are not connected to the Internet to help support their learning, their opportunities for future success and the success of the nation are diminished. NSBA urges the Commission, Congress, the Biden Administration, and other advocates to unite with local school board members to meet this equity challenge and help millions of students have the resources they need to have successful lives.

We thank the Commission for the opportunity for NSBA to comment on this important issue.

Sincerely,

A handwritten signature in blue ink that reads "Anna M. Chávez". The signature is fluid and cursive, with the first letters of each word being capitalized and prominent.

Anna Maria Chávez, Esq.
Executive Director & CEO
National School Boards Association

⁸ Public School Transformation Now! Access, Equity, and Innovation, National School Boards Association. Accessed April 23, 2021 <https://www.nsba.org/Advocacy/Federal-Legislative-Priorities/school-transformation-now>