

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

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

**REPLY COMMENTS OF FUNDS FOR LEARNING, LLC  
IN SUPPORT OF THE PETITIONS FOR RECONSIDERATION BY  
THE STATE E-RATE COORDINATORS’ ALLIANCE AND  
INFINITY COMMUNICATIONS AND CONSULTING, INC.**

Funds For Learning, LLC (“FFL”)<sup>1</sup> submits these reply comments in support of the Petition for Reconsideration by Infinity Communications and Consulting, Inc. (“Infinity”)<sup>2</sup> and the Petition for Reconsideration by the State E-rate Coordinators’ Alliance (“SECA”).<sup>3</sup>

Each petition raises important issues concerning the Commission’s Category Two Order.<sup>4</sup> Infinity, in its petition, requests that the Commission reconsider its decision to base Category Two student counts on full-time student enrollment only. To avoid the adverse impact to applicants with sizeable part-time student enrollment, we join Infinity in urging the Commission

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<sup>1</sup> Funds For Learning, LLC is a national E-rate-compliance consulting and web services firm. For the past 22 years, FFL has dedicated itself exclusively to the needs of E-rate stakeholders. Our clients include some of the country’s smallest and largest E-rate applicants.

<sup>2</sup> Petition for Reconsideration by Infinity Communications and Consulting, Inc., WC Docket No. 13-184 (January 21, 2020) (“Infinity Petition”).

<sup>3</sup> Petition for Reconsideration by the State E-rate Coordinators’ Alliance, WC Docket No. 13-184 (January 21, 2020) (“SECA Petition”).

<sup>4</sup> *Modernizing the E-rate Program for Schools and Libraries*, Report and Order, WC Docket No. 13-184, FCC 19-117 (rel. December 3, 2019) (“Category Two Order”).

to reconsider or revise its decision to exclude part-time students from the Category Two budget calculations.

SECA requests in its petition that the Commission remove the cost allocation requirement for shared equipment used, in part, by non-instructional facilities (“NIFs”). We share the concerns identified by SECA and encourage the Commission to modify its rules to remove this burdensome requirement.

**A. INFINITY PETITION FOR RECONSIDERATION CONCERNING THE EXCLUSION OF PART-TIME STUDENTS FROM THE CATEGORY TWO BUDGET CALCULATIONS**

FFL appreciates the Commission’s efforts to streamline and simplify the planning and application process for Category Two services. Although the Commission’s efforts to reduce complexity are well intentioned, we believe that excluding part-time students from the Category Two budget calculations will adversely impact applicants with sizeable part-time student enrollment. Accordingly, FFL joins Infinity in urging the Commission to reconsider or revise its decision to base student counts on full-time enrollment only.

**1. All students attending an independent school should be counted as full-time students when the student population is made up entirely or largely of part-time students**

The Commission should consider the impact of the rules on independent schools consisting entirely (or predominantly) of part-time students that are not part of a district, for example trade schools and career centers. As Infinity notes, these schools often serve multiple districts but are not part of any single district, and often *all* of the students attend on a part-time basis.<sup>5</sup> The exclusion of part-time students will disproportionately impact these schools. Because

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<sup>5</sup> Infinity Petition at 1.

the schools have little or no full-time students, they will not be eligible for Category Two discounts.

The Commission's new rules should be more carefully crafted to avoid the disparate impact to schools with significant part-time student enrollment. We believe that students attending independent schools should be considered full-time students notwithstanding that some or all of the students attend the school on a part-time basis.

**2. Districts should be permitted to add part-time students to districtwide enrollment calculations when a school in the district is comprised mostly of part-time students**

As written, the new Category Two rules will also adversely impact districts when one or more of its schools are comprised entirely or mostly of part-time students. The concern is particularly acute for school districts that include vocational schools, where students often only attend on a part-time basis. In many such cases, the school is comprised both of part-time students from its district as well as students enrolled in other, nearby districts who attend for part of the day. Under the new Category Two rules, all of these part-time students enrolled in the vocational school are excluded from the district's Category Two budget. Therefore, the true enrollment will be underrepresented, and the district's Category Two budget will be reduced. The result is an inadequate internal networking budget for both the district and the vocational school. To alleviate this undesirable and unfair impact, part-time students enrolled in the vocational school should be included in this districtwide count of students.

We endorse the approach proposed by SECA in its comments in support of Infinity's petition.<sup>6</sup> A school district should be permitted to include part-time students in its districtwide enrollment when a school in its district is comprised of 51% or more of part-time students. Such

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<sup>6</sup> State E-rate Coordinators' Alliance Comments, WC Docket No. 13-184 at 4 (April 8, 2020) ("SECA Comments").

an approach would ensure that part-time students are properly counted when they comprise the majority of the student enrollment in a school. It also ensures that the school and its district are provided an adequate Category Two budget.

**B. SECA PETITION FOR RECONSIDERATION CONCERNING THE COST ALLOCATION REQUIREMENT FOR NON-INSTRUCTIONAL FACILITIES**

In the Category Two Order, the Commission announced that it would continue to require applicants to deduct the cost of a NIF's use of shared equipment from their requests for E-rate support. For all of the reasons voiced by SECA in its petition, we urge the Commission to reconsider its decision and ultimately modify its rules to remove this burdensome requirement.

**1. NIFs serve an important educational purpose**

We agree with SECA that applicants should be permitted to utilize category two funding in NIFs.<sup>7</sup> After all, E-rate program rules allow applicants to use category one support in NIFs. We fail to understand how the distribution of internet access through NIFs is not equally important and therefore eligible. SECA's request, however, is even more limited. SECA is not asking that category two funds be used for site-specific equipment located in and only used by NIFs. Instead, its request applies only to category two equipment which happens to be shared by a NIF among other eligible schools or libraries.

We believe that NIFs serve a vital educational purpose. While NIFs are not used directly in the education of students, these facilities support administrative functions that are critical to the educational mission. These sites are therefore "integral, immediate, and proximate to the education of students and the provision of services to library patrons."<sup>8</sup>

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<sup>7</sup> SECA Petition at 2.

<sup>8</sup> See *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Second Report and Order and Further Notice of Proposed Rulemaking, FCC 03-101 at para. 17 (Released April 30, 2003).

**2. The task of subtracting the cost of a NIF's use of shared network equipment is anything but simple**

In the Category Two Order, the Commission notes the overwhelming agreement that the cost allocation process is burdensome. Yet the Commission declined to modify its rules because, in part, it was not persuaded that the administrative burden warranted eliminating a rule designed to ensure that E-rate support is only provided to eligible entities. According to the Commission, the “relatively simple” task of subtracting the cost of a NIF’s use of the shared equipment was not likely to burden applicants or USAC. We disagree.

This sounds like a relatively straightforward task in theory. In practice, however, subtracting the cost of the NIF’s use of a single piece of equipment is anything but simple. And the task is further complicated when the remaining category two budget is insufficient to cover the cost of the equipment or the equipment is only partially eligible.

Further, requiring applicants to make complicated cost-allocations when it is avoidable, with no discernible impact on the demand for or availability of E-rate funding, is contrary to the Commission’s reasoning for making permanent the category two budget approach. It neither streamlines the process nor simplifies the category two budgets nor decreases the administrative burden of applying for category two services.

**3. The requirement has a disproportionate negative impact on larger schools, school districts, and libraries**

Larger applicants more commonly have standalone NIFs, subjecting them to the NIF cost allocation rules. Smaller schools, district, and libraries, on the other hand, are more likely to locate administrative functions inside the same building and therefore would not be subject to the cost allocation requirement. We encourage the Commission to consider the how

this requirement disproportionately affects larger applicants. We agree with SECA that removing the NIF cost allocation requirement would avoid this unequal treatment.<sup>9</sup>

**4. Removing the NIF cost allocation requirement will offer greater flexibility and promote efficiency**

Individual applicants are in the best position to decide where to allocate their category two resources. Removing the NIF cost allocation requirement will provide applicants greater flexibility to address their unique academic and administrative needs.

Removing this burdensome requirement will also promote efficiency for applicants and USAC. The cost allocation requirement is time consuming and confusing for applicants. At the same time, it needlessly delays administrative processing for USAC.

Moreover, the NIF cost allocation requirement discourages efficient network design. Use of centralized data centers in NIFs may be a more cost-effective solution. However, under the current rules, if a school district opts to purchase and install shared equipment in a centralized data center-NIF, it must reduce the cost of the shared equipment for the NIF's use even if the shared equipment is more cost effective.

**C. CONCLUSION**

For the foregoing reasons, FFL respectfully requests that the Commission reconsider its decision to exclude part-time students from Category Two budget calculations or revise its rules consistent with the recommendations set forth in the Infinity Petition. Additionally, FFL requests that the Commission reconsider the NIF cost allocation requirement and ultimately modify its rules to remove this unnecessarily complicated, burdensome requirement.

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<sup>9</sup> SECA Petition at 3-4.

Respectfully submitted,



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