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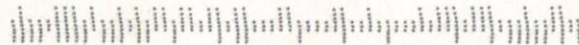


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# United States Department of the Interior

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Washington, DC 20240

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Federal Communications Commission  
Office of the Secretary

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AUG 31 2020

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Ms. Marlene H. Dortch  
Secretary, Federal Communications Commission  
Office of the Secretary  
445 12<sup>th</sup> Street, SW.  
Washington, DC 20554

**Re: Notice of *Ex Parte*  
Proposed Eligible Services List for the E-Rate Program, WT Docket No. 13-184**

Dear Secretary Dortch:

I appreciate the opportunity to file the following *ex parte* letter in response to the Federal Communications Commission's (Commission) proposed Eligible Services List (ESL) for the schools and libraries universal service support mechanism (E-Rate program) for funding year (FY) 2021.<sup>1</sup> The Department's interest in this matter is tied to the Bureau of Indian Education (BIE) and the more than 43,000 K-12 students in the 183 Bureau-funded elementary and secondary schools, located on 64 reservations in 23 states. The BIE's mission is to provide quality education opportunities from early childhood through life in accordance with a tribe's need for cultural and economic well-being.

In light of the ongoing COVID-19 pandemic and the ensuing disruption to schools and education across the country, I strongly encourage the Commission to adopt changes to the ESL and the ESL eligibility limitations that will support virtual learning activities in the coming academic year. These changes will ensure that all students can access critical educational resources should school again be required to end or pause in-person learning due to the pandemic. These changes will also support efforts to close the "homework gap"<sup>2</sup> and close the digital divide for students in rural areas when schools are operating normally. While the digital divide has been an issue for many years, it has never been more pronounced than in 2020 when the school campus was moved into every student's home.

As schools closed their doors this spring and moved to online learning environments to shield students and their families from the effects of COVID-19, many students faced significant obstacles to continuing their education. As of 2018, 27.7 percent of individuals living on Tribal lands (urban and rural) lack broadband access home<sup>3</sup> and many more cannot afford the cost of service in their area. According to an internal analysis, of the 44,000 BIE students enrolled for the 2019-2020 school year, more than 32,000 or 72 percent live in areas unserved or underserved by broadband. To access lessons, students commute, sometimes for several hours, to sit in a parking lot outside a closed school or library to access a public Wi-Fi connection. This arrangement is unsustainable and detrimental to their educational attainment.

<sup>1</sup> Wireline Competition Bureau Seeks Comment on Proposed Eligible Services List for the E-Rate Program, FCC 20-767, WT Docket No 13-184 (rel. July 21, 2020).

<sup>2</sup> The "homework gap" refers to the disconnect that occurs when students are assigned homework that requires internet access, but do not have broadband at home.

<sup>3</sup> Federal Communications Commission (FCC), 2020 Broadband Deployment Report, p. 19.



A 2018 study by the U.S. Department of Education's Institute of Education Sciences (IES) found geography directly impacts home internet access and students in "remote rural" areas have more limited home internet access than students in suburbs, cities, or towns. The study also found additional gaps among students of different poverty levels and racial/ethnic groups.<sup>4</sup>

Access to broadband service at home is critical to achieving the BIE's mission of providing quality education and fulfilling the federal government's Trust responsibilities to tribes and their members. While much work is being done to expand broadband deployment in American Indian and Alaska Native communities, the barriers to development will not be overcome in time for the 2020-2021 academic year.

In the 2019 "Improving and Increasing Broadband Deployment on Tribal Lands" report, the Native Nations Communications Task Force (Task Force) identified "statutory requirements restricting federal funding to single-use deployments" as one of the most significant barriers to broadband deployment on Tribal lands.<sup>5</sup> The Task Force recommended amending Section 254 to "give [E-Rate] recipients the opportunity to leverage federally subsidized infrastructure to extend service areas to where there is limited or not coverage, or otherwise benefit from the efficiencies of connecting a multipurpose facility by removing or loosening single-use funding restrictions."<sup>6</sup> Expanding the E-Rate ESL and eligibility limitations will work in the spirit of these recommendations.

**I. The Commission should modify the eligibility limitations for Category One and Category Two services to include connections to students' homes or other primary place of learning as an extension of the school campus.**

To protect the health and safety of student, staff, and their communities, schools across the Nation have been compelled to close their doors and expand the classroom to include the homes of each student and teacher. This extension of the traditional classroom environment is an expansion of the school campus and should be recognized as such in the E-Rate eligible services list and eligibility limitations. We propose the following section of the Eligibility Explanations for Certain Category One and Category Two Services (additions in bold italics):

**Connections between buildings of a single school** – The classification of connections between multiple buildings of a single school is determined by whether the buildings are located on the same campus. A "campus" is defined as the geographically contiguous grounds where the instructional buildings of a single eligible school are located. A single school may have multiple campuses if it has instructional buildings located on grounds that are not geographically contiguous. *In the instance that otherwise in-person classes are moved online due to health and safety concerns, the definition of instructional buildings includes the primary residences of school staff and students. Each residence will constitute a campus for the purposes of the E-Rate program.* Different schools located on the same grounds do not comprise a single campus. The portion of the grounds occupied by the instructional buildings for each school is a campus for that school.

- Connections between buildings on different campuses of a single school are considered to be Category One data transmission services.

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<sup>4</sup> U.S. Department of Education, National Center for Education Statistics. (2018). *Student Access to Digital Learning Resources Outside of the Classroom (NCES 2017-098)*, Executive Summary.

<sup>5</sup> FCC, Native Nations Communications Task Force. (2019). *Improving and Increasing Broadband Deployment on Tribal Lands*, p.6.

<sup>6</sup> *Id.*, p. 9.



- Connections between different schools with campuses located on the same property (e.g., an elementary school and middle school located on the same property) are considered to be Category One data transmission services, unless they share the same building.
- Connections between buildings of a single school on the same campus are considered to be Category Two internal connections.<sup>7</sup>


**II. The Commission should expand the list of Category One and Category Two supported equipment and services to include the connections needed for broadband connectivity to and within students' homes or other primary place of learning as an extension of the school campus.**

To ensure students can benefit from the proposed expansion of the "school campus" and "instructional building" terms discussed above, the Department encourages the Commission to further review the ESL Category One and Category Two lists to ensure it is inclusive of the equipment and services necessary to provide broadband connectivity to and within students' primary places of learning.

In closing, I strongly encourage the Commission to protect the health, safety, and educations of Native children by updating the current eligibility limitations on the E-Rate program to support equipment and services providing broadband access to students' homes or other primary places of learning if they would otherwise be without access.

Thank you for your consideration in this important matter. I look forward to working with you to empower the future of Indian Country through our students who are the next generation of elected officials, tribal health providers, business leaders, and educators.

Sincerely,



Tara Sweeney  
Assistant Secretary – Indian Affairs

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<sup>7</sup> Wireline Competition Bureau Seeks Comment on Proposed Eligible Services List for the E-Rate Program, FCC 20-767, WT Docket No 13-184 (rel. July 21, 2020).