



August 3, 2022

Trent Harkrader, Bureau Chief
Sue McNeil, Associate Bureau Chief
Wireline Competition Bureau
Federal Communications Commission
45 L Street NE
Washington, DC 20554

Re: *Modernizing the E-rate Program for Schools and Libraries, WC Docket No. 13-184*
Proposed Declaratory Ruling Making Wi-Fi on School Buses Eligible for E-rate
Funding

Dear Mr. Harkrader and Ms. McNeil:

On May 11, 2022, Chairwoman Rosenworcel announced the circulation of a draft declaratory ruling to make Wi-Fi on school buses eligible for E-rate funding. According to the News Release,¹ the draft Declaratory Ruling directs the FCC's Wireline Competition Bureau (Bureau) to include Wi-Fi on school buses in establishing E-Rate eligible services for the upcoming funding year.

As of the date of this letter, the draft declaratory order has not been released. With the introduction of a new eligible service, applicants need more than the minimum 60 days between the release of the final Eligible Services List Public Notice (final ESL PN) and the opening of the Form 471 window to benefit from the newly eligible service.² Applicants need time to be able to understand the parameters of the new service; have sufficient advance planning time to determine their needs; and to conduct an E-rate compliant procurement.

The State E-rate Coordinators' Alliance (SECA) has identified several questions within this letter that we request to be addressed and resolved when establishing the eligibility parameters for Wi-Fi on school buses. In light of these important questions, and the need for thoughtful reflection on these issues, SECA is concerned that there is not sufficient time to finalize the Funding Year 2023 ESL with the inclusion of Wi-Fi on buses and also provide sufficient advance notice to applicants for the upcoming funding year.³

¹ <https://docs.fcc.gov/public/attachments/DOC-383230A1.docx>

² 47 C.F.R. §54.502(d).

³ In the past two years, the draft Eligible Service List Public Notice (draft ESL PN) has been released in July or August and the final ESL PN has been released in late November or December. In both years, the FCC waived the regulation that prescribes that the final ESL shall be available at least 60 days prior to the opening of the form 471 filing window. 47 C.F.R. §54.502(d). Because there were no significant changes from the prior year ESL this did not pose a hardship to applicants. Such a schedule, if repeated for Funding Year 2023 with the inclusion of Wi-Fi on school buses, would generate confusion and mistakes on form 471 applications – calling

Rather than continue with the Funding Year 2023 timeline, we believe that it makes a great deal of sense to put this framework for Wi-Fi on school buses in place for **Funding Year 2024**. This revision of the timeline will provide the FCC and interested stakeholders with sufficient time to address the various implementation questions in a comprehensive and cohesive manner. We believe that otherwise, if continued to be pursued for FY 2023, the initiative will give rise to confusion that will impede its success.

SECA requests the Bureau to consider the following issues and questions when addressing this topic in a forthcoming draft Eligible Services List or other Public Notice.

1. *What will be the scope of the eligible equipment and services for Wi-Fi on buses?*

SECA is aware that to make Wi-Fi on buses work, there must be equipment installed in the buses. The equipment may be purchased or leased from a commercial service provider. Additionally, there are monthly recurring costs to obtain the Wi-Fi service from a commercial service provider. There also may be ancillary one-time costs such as activation and installation fees. The News Release states that “similar access point technologies” on buses in addition to Wi-Fi technology would qualify for E-rate, but this language needs to be further defined. We request the draft ESL Public Notice address these issues so that stakeholders may offer comment on this subject.

2. *Will there be any reasonable cost caps established for the equipment and service costs for Wi-Fi on buses?*

Based on the experience obtained from the Emergency Connectivity Fund program, will WCB propose reasonable cost caps to ensure that Wi-Fi on buses will be cost effective and not adversely impact the available funding for all other E-rate eligible equipment and services? Before any components – services or equipment – are deemed eligible, will the Bureau consider the cost impact on the overall demand for E-rate funding and whether the increased demand will have a negative impact on the USF contribution factor?

3. *Will Wi-Fi on buses be classified as Category 1 or Category 2, or both?*

Currently, the costs of E-rate eligible equipment inside school and library buildings are classified as Category 2 whereas monthly recurring costs for broadband services are classified as Category 1. Will the same parameters govern Wi-Fi on buses?

into question whether the service truly will benefit students. Timing of the implementation is paramount to ensure its success.

- 4. Is the eligibility of Wi-Fi on buses as either Category 1 or Category 2 dependent on whether the equipment is leased or purchased? Similarly, does it matter whether the service provider packages the equipment as part of the managed service offering that consists only of monthly recurring charges?*

Classifying some school bus Wi-Fi arrangements as Category 1 and others as Category 2 will cause undue confusion and complexity for applicants and the administrator. Such a distinction may incite the creation of service packages that fit entirely within Category 1 funding. We encourage the Bureau to classify leased and purchased equipment in the same category of service to simplify the application process and minimize confusion.

- 5. What changes will be made to the Form 470 to reflect this new eligibility? How should applicants best describe their requests for equipment and services used to provide Wi-Fi on school buses?*

The existing Form 470 does not have a service request option for Wi-Fi on school buses. If an existing service option is used, that does not explicitly state the requested service is for school bus Wi-Fi, this may give rise to confusion during the bidding process. Vendors may presume that applicants are seeking bids for internet to their schools rather than their school buses. Even if applicants clarify that their internet service requests are for school bus Wi-Fi, these explanations may be missed by vendors who rely on search tools that do not include the narrative text box field. We, therefore, believe it is in the best interest of the program to modify the form 470 to include a specific service request for school bus Wi-Fi.

In any event, the FCC will need to clarify that applicants will not be subject to a competitive bidding infraction if they receive and do not evaluate internet bids for service that is not for school buses. This may occur when a bidder responds to the category of service without being aware that the service and/or equipment is for school bus Wi-Fi.

- 6. If any Wi-Fi service or components will be classified as Category 2, will the FCC eliminate the prohibition against Non-Instructional Facilities (NIFs) from receiving Category 2 funding?*

Currently, only schools as defined by state statutes are permitted to receive Category 2 equipment. School buses do not meet the legal definition of schools, and therefore, would be NIFs. These conditions would preclude any Wi-Fi equipment or services for buses from Category 2 treatment. Yet some or all of these costs may be most appropriately included in Category 2.

This new service and equipment must be treated in parity with all other Category 2 funding. Category 2 classification and E-rate eligibility of Wi-Fi in NIF buses should not be an exception, but rather, should be the impetus for removing the current NIF restriction for

receipt of Category 2 funding. Any building or facility used by a school district or library is serving an educational purpose, and therefore, we strongly encourage the FCC to take this opportunity to clarify that schools and libraries are permitted to use their limited Category 2 budgets for whichever facilities are in most need of broadband infrastructure equipment, whether that be schools or non-instructional facilities that support the schools and libraries.

The switch in FY 2021 from building-specific Category 2 budgets to district-wide and library system-wide budgets greatly facilitates the accounting for and program administration of Category 2 funding in any school or library building or facility. SECA believes that applicants are in the best position to determine the priorities for directing their Category 2 funding, and this revision is long overdue. Program simplification will result to everyone's benefit by eliminating the need to perform and review cost allocations of shared equipment that is used in part by NIFs.

7. *Will Wi-Fi on buses be considered eligible when buses are parked and used as hotspots and not being used to transport students?*

The May 11, 2022 News Release noted that Wi-Fi on buses may help alleviate the homework gap for students who lack broadband at home. This observation could be construed to recognize the benefit of parking a school bus in the community. Will students, school officials, library patrons and library patrons be allowed to use a parked buses' Wi-Fi, with proper credentials such as requiring usernames and passwords?

8. *Will the draft Eligible Services List recognize that off-campus usage of internet installed in schools and libraries when used by authorized users also serves an educational purpose, and does not require cost allocation?*

The News Release states that the Declaratory Ruling finds Wi-Fi, or similar access point technologies, on school buses serves an educational purpose, and therefore, would qualify for E-rate. The draft ESL Public Notice likewise should recognize that off-campus use of internet in school and library structures also qualifies for E-rate when used by authorized individuals (students, school officials, library officials and library patrons) serves an educational purpose. This will alleviate the requirement for applicants to perform complex cost allocations when signals extend beyond the school or library walls or parking lots, but for which are not increasing internet demand or actual costs. We believe the rationale for making Wi-Fi on buses eligible is indistinguishable from the off-campus usage of E-rated internet delivered to schools and libraries when used for educational purposes. This is particularly true when buses are parked and not in use for transporting students, as noted above in Item 7.

9. *How will applicants identify buses as recipients of service in program forms and other documents?*

Category 1 services require applicants to identify the recipients of service by entity number and Category 2 equipment must be maintained in an asset inventory that lists the location of the equipment in an eligible entity. This raises the question of whether each bus will require its own entity number. Such a requirement will add more bureaucracy and complexity to the program. To address this issue in a more streamlined manner, may applicants list an existing entity as the recipient of service (for any Category 1 FRNs or their Category 2 asset inventory) and then indicate that the FRN is for school bus Wi-Fi? Alternatively, may an applicant obtain a single entity number for all school buses within the district and list that entity on the Form 471 and/or in its required documentation?

10. *May Wi-Fi equipment and service supported by E-rate be installed in a bus that is not owned by a school and is used for transporting students via a transportation contract with the district?*

According to the nonpartisan research and educational institute Mackinac Center for Public Policy, 26.6% of Michigan school districts and 66.4% of Pennsylvania school districts contract out for school transportation services.⁴ While these percentages may be high compared to other states, they illustrate that school bus contracting is a commonly outsourced service. In addition, these buses are often used to transport students in multiple districts. How will the eligibility and use of Wi-Fi equipment and service on third-party owned school buses be addressed?

11. *In some urban areas, students may use public (municipal) buses to travel to and from school. Are these public buses considered “school buses” and thus are they eligible to have Wi-Fi equipment and service installed in them?*

Is the eligibility of the equipment or service dependent upon which entity owns or contracts for the bus and/or whether the bus is used by anyone other than students?

12. *What measures are required to ensure that there is no duplication of E-rate funding and ECF funding for Wi-Fi on school buses?*

Since ECF funding is available through December 31, 2023, which overlaps in part with the E-rate Funding Year 2023, are there additional requirements that applicants must undertake to demonstrate there is no duplication between ECF and E-rate funding for Wi-Fi on school buses?

⁴ <https://www.mackinac.org/archives/2015/s2015-06.pdf>

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13. *Will CIPA apply to Wi-Fi equipment on school buses when owned or leased by schools?*

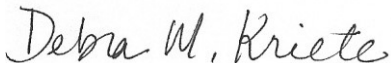
We encourage the Bureau to provide guidance concerning the applicability of CIPA to school owned or leased Wi-Fi equipment and service installed in school buses.

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In conclusion, we respectfully request the Wireline Competition Bureau to address the questions set forth in this letter, as well as questions that may be raised by other interested stakeholders, in delineating the parameters of E-rate eligibility of school bus Wi-Fi.

Thank you in advance for considering our views. Please contact me at dmkriete@comcast.net or 717 232 0222 if you have any questions.

Sincerely,



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