

Federal Communications Commission

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

In the Matter of)
)
Establishing Emergency Connectivity Fund to)
Close the Homework Gap) WC Docket No. 21-93
)

ERRATUM

Released: May 28, 2021

By the Chief, Wireline Competition Bureau:

On May 11, 2021, the Commission released a *Report and Order*, FCC 21-58, in the above captioned proceeding. To conform to the publishing conventions of the National Archives and Records Administration's Office of the Federal Register, this Erratum replaces **Appendix A** of the *Report and Order*. See new **Appendix A** attached.

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith
Chief, Wireline Competition Bureau

APPENDIX A

Final Rules

For the reasons set forth above, part 54 of title 47 of the Code of Federal Regulations is amended as follows:

PART 54 – UNIVERSAL SERVICE

The authority for part 54 continues to read as follows:

AUTHORITY: 47 U.S.C. 151, 154(i), 155, 201, 205, 214, 219, 220, 229, 254, 303(r), 403, 1004, 1302, and 1601-1609, unless otherwise noted.

Add subpart Q to read as follows:

Subpart Q – Emergency Connectivity Fund

Sec.

54.1700 Terms and definitions.

54.1701 Eligible recipients.

54.1702 Emergency Connectivity Fund eligible equipment and services.

54.1703 Emergency Connectivity Fund competitive bidding requirements.

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54.1717 Administrator of the Emergency Connectivity Fund.

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§ 54.1700 Terms and definitions.

(a) *Advanced telecommunications and information services.* "Advanced telecommunications and information services" are services, as such term is used in section 254(h) of the Communications Act, 47 U.S.C. 254(h).

(b) *Billed entity.* A "billed entity" is the entity that remits payment to service providers for equipment and services rendered to eligible schools and libraries.

(c) *Connected devices.* "Connected devices" are laptop computers or tablet computers that are capable of connecting to advanced telecommunications and information services. Connected devices do not include desktop computers or smartphones.

(d) *Consortium.* A "consortium" is any local, statewide, regional, or interstate cooperative association of schools and/or libraries eligible for Emergency Connectivity Fund support that seeks funding for eligible services on behalf of some or all of its members. A consortium may also include health care providers eligible under subpart G of this part, and public sector (governmental) entities, including, but not limited to, state colleges and state universities, state educational broadcasters, counties, and municipalities, although such entities are not eligible for support.

(e) *COVID-19 emergency period.* The "COVID-19 emergency period" has the meaning given the term in title VII, section 7402(d)(5), Pub. L. 117-2 (the American Rescue Plan Act).

(f) *Educational purposes.* For purposes of this subpart, activities that are integral, immediate, and proximate to the education of students in the case of a school, or integral, immediate, and proximate to the provision of library services to library patrons in the case of a library, qualify as "educational purposes."

(g) *Elementary school.* An "elementary school" means an elementary school as defined in 20 U.S.C. 7801, a non-profit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under state law.

(h) *Library.* A "library" includes:

- (1) A public library;
- (2) A public elementary school or secondary school library;
- (3) A Tribal library;
- (4) An academic library;

(5) A research library, which for the purpose of this section means a library that:

- (i) Makes publicly available library services and materials suitable for scholarly research and not otherwise available to the public; and
- (ii) Is not an integral part of an institution of higher education; and

(6) A private library, but only if the state in which such private library is located determines that the library should be considered a library for the purposes of this paragraph (h).

(i) *Library consortium.* A “library consortium” is any local, statewide, regional, or interstate cooperative association of libraries that provides for the systematic and effective coordination of the resources of schools, public, academic, and special libraries and information centers, for improving services to the clientele of such libraries. For the purposes of this subpart, references to library will also refer to library consortium.

(j) *National school lunch program.* The “national school lunch program” is a program administered by the U.S. Department of Agriculture and state agencies that provides free or reduced-price lunches to economically-disadvantaged children. A child whose family income is between 130 percent and 185 percent of applicable family size income levels contained in the nonfarm poverty guidelines prescribed by the Office of Management and Budget is eligible for a reduced-price lunch. A child whose family income is 130 percent or less of applicable family size income levels contained in the nonfarm income poverty guidelines prescribed by the Office of Management and Budget is eligible for a free lunch.

(k) *Secondary school.* A “secondary school” means a secondary school as defined in 20 U.S.C. 7801, a non-profit institutional day or residential school, including a public secondary charter school, that provides secondary education, as determined under state law except that the term does not include any education beyond grade 12.

(l) *Wi-Fi.* “Wi-Fi” is a wireless networking protocol based on Institute of Electrical and Electronics Engineers standard 802.11.

(m) *Wi-Fi hotspot.* A “Wi-Fi hotspot” is a device that is capable of receiving advanced telecommunications and information services, and sharing such services with another connected device through the use of Wi-Fi.

§ 54.1701 Eligible recipients.

(a) *Schools.* (1) Only schools meeting the statutory definition of “elementary school” or “secondary school” as defined in § 54.1700, and not excluded under paragraph (a)(2) or (3) of this section shall be eligible for support under this subpart.

(2) Schools operating as for-profit businesses shall not be eligible for support under this subpart.

(3) Schools with endowments exceeding \$50,000,000 shall not be eligible for support under this subpart.

(b) *Libraries.* (1) Only libraries eligible for assistance from a state library administrative agency under the Library Services and Technology Act and not excluded under paragraph (b)(2) or (3) of this section shall be eligible for support under this subpart.

(2) A library's eligibility for Emergency Connectivity Fund support shall depend on its funding as an independent entity. Only libraries whose budgets are completely separate from any schools (including, but not limited to, elementary and secondary schools, colleges, and universities) shall be eligible for support as libraries under this subpart.

(3) Libraries operating as for-profit businesses shall not be eligible for support under this subpart.

(c) *Consortia*. For consortia, reimbursement through the Emergency Connectivity Fund shall apply only to the portion of eligible equipment and services purchased by eligible schools and libraries and used by students, school staff, or library patrons as provided for by this subpart.

§ 54.1702 Emergency Connectivity Fund eligible equipment and services.

(a) *Eligible equipment*. For the purposes of this subpart, the following shall be considered equipment eligible for Emergency Connectivity Fund support:

- (1) Wi-Fi hotspots;
- (2) Modems;
- (3) Routers;
- (4) Devices that combine a modem and a router; and
- (6) Connected devices.

(b) *Eligible services*. (1) For purposes of this subpart, except as provided in paragraph (b)(2) of this section, services eligible for Emergency Connectivity Fund support shall be commercially-available fixed or mobile broadband Internet access services, including those available for purchase by schools and libraries through bulk purchasing arrangements.

(2) For eligible entities unable to provide students, school staff, or library patrons commercially-available fixed or wireless broadband Internet access services, services eligible for Emergency Connectivity Fund support shall include the reasonable costs of construction of new networks, including self-provisioned networks included in the Emergency Connectivity Fund eligible services list; and/or the reasonable costs of customer premises equipment to receive datacasting services.

§ 54.1703 Emergency Connectivity Fund competitive bidding requirements.

A school, library, or consortium seeking to participate in the Emergency Connectivity Fund must comply with all applicable state, local, or Tribal procurement requirements for all equipment and services supported by the Emergency Connectivity Fund.

§ 54.1704 Emergency Connectivity Fund gift restrictions.

(a) *Gift restrictions*. (1) Subject to paragraphs (a)(3) and (4) of this section, an eligible school, library, or consortium that includes an eligible school or library may not directly or indirectly solicit or accept any gift, gratuity, favor, entertainment, loan, or any other thing of value from a service provider participating in or seeking to participate in the Emergency Connectivity Fund Program. No such service provider shall

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offer or provide any such gift, gratuity, favor, entertainment, loan, or other thing of value except as otherwise provided in this section. Modest refreshments not offered as part of a meal, items with little intrinsic value intended solely for presentation, and items worth \$20 or less, including meals, may be offered or provided, and accepted by any individuals or entities subject to this subpart, if the value of these items received by any individual does not exceed \$50 from any one service provider per funding year. The \$50 amount for any service provider shall be calculated as the aggregate value of all gifts provided during a funding year by the individuals specified in paragraph (a)(2)(ii) of this section.

(2) For purposes of this paragraph (a):

(i) The terms “school, library, or consortium” include all individuals who are on the governing boards of such entities (such as members of a school committee), and all employees, officers, representatives, agents, consultants or independent contractors of such entities involved on behalf of such school, library, or consortium with the Emergency Connectivity Fund Program, including individuals who prepare, approve, sign or submit Emergency Connectivity Fund Program applications, or other forms related to the Emergency Connectivity Fund Program, or who prepare bids, communicate, or work with Emergency Connectivity Fund Program service providers, Emergency Connectivity Fund Program consultants, or with the Administrator, as well as any staff of such entities responsible for monitoring compliance with the Emergency Connectivity Fund Program; and

(ii) The term “service provider” includes all individuals who are on the governing boards of such an entity (such as members of the board of directors), and all employees, officers, representatives, agents, or independent contractors of such entities.

(3) The restrictions set forth in this paragraph (a) shall not be applicable to the provision of any gift, gratuity, favor, entertainment, loan, or any other thing of value, to the extent given to a family member or a friend working for an eligible school, library, or consortium that includes an eligible school or library, provided that such transactions:

(i) Are motivated solely by a personal relationship;

(ii) Are not rooted in any service provider business activities or any other business relationship with any such eligible school, library, or consortium; and

(iii) Are provided using only the donor’s personal funds that will not be reimbursed through any employment or business relationship.

(4) Any service provider may make charitable donations to an eligible school, library, or consortium that includes an eligible school or library in the support of its programs as long as such contributions are not directly or indirectly related to Emergency Connectivity Fund procurement activities or decisions and are not given by service providers to circumvent Emergency Connectivity Fund Program rules in this subpart.

(b) *COVID-19 pandemic exception.* Any service provider may offer and provide, and any applicant may solicit and accept, broadband connections, devices, networking equipment, or other things of value directly related to addressing remote learning needs of students, school staff, and library patrons due to the COVID-19 pandemic through June 30, 2022.

§ 54.1705 Emergency Connectivity Fund eligible uses.

Eligible equipment and services purchased with Emergency Connectivity Fund support must be used primarily for educational purposes, as defined in § 54.1700.

§ 54.1706 Emergency Connectivity Fund service locations.

(a)(1) Eligible schools and libraries can request and receive support for the purchase of eligible equipment and services for use by:

- (i) In the case of a school, students and school staff at locations other than the school; and
- (ii) In the case of a library, patrons of the library at locations other than the library.

(2) Service locations may include, but are not limited to, homes, community centers, churches, school buses, bookmobiles, and any other off-campus locations where students, school staff, and library patrons are engaged in remote learning activities.

(b) Eligible schools and libraries cannot request and receive support from the Emergency Connectivity Fund for the purchase of eligible equipment and services for use solely at the school or library during the COVID-19 emergency period. However, some use of eligible equipment, as defined in § 54.1700, and eligible mobile services, purchased for off-campus may be used at the school or library is permitted.

(c) Emergency Connectivity Fund support for eligible equipment and services is limited to no more than one fixed broadband Internet access connection per location, and one connected device and one Wi-Fi hotspot device per student, school staff member, or library patron. For purposes of the per-location limitation imposed on fixed broadband Internet access services in this paragraph (c), each unit in a multi-tenant environment is a separate location for purposes of this paragraph (c).

§ 54.1707 Emergency Connectivity Fund reasonable support amounts.

Except as provided elsewhere in this subpart, in providing support from the Emergency Connectivity Fund, the Commission shall reimburse 100% of the costs associated with the eligible equipment and/or services, except that any reimbursement of for the costs associated with any eligible equipment or service may not exceed a reasonable support amount as provided in paragraphs (a) and (b) of this section.

(a) Support amounts are limited up to \$400 for connected devices and up to \$250 for Wi-Fi hotspots.

(b) The Wireline Competition Bureau is delegated authority to provide guidance to the Administrator to assess the reasonableness of requests for other eligible equipment or services, including those identified by the Administrator as containing costs that are inconsistent with other requests.

§ 54.1708 Emergency Connectivity Fund cap and requests.

(a) *Cap.* (1) The Emergency Connectivity Fund shall have a cap of \$7,171,000,000.

(2) \$1,000,000 to remain available until September 30, 2030, for the Inspector General of the Commission to conduct oversight of support provided through the Emergency Connectivity Fund.

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(3) Not more than 2% of the cap, or approximately \$143,420,000, shall be used by the Commission and the Administrator for administration of the Emergency Connectivity Fund.

(b) *Requests.* The Administrator shall implement an initial filing window, covering funding for purchases made between July 1, 2021 and June 30, 2022 for eligible equipment and services provided to students, school staff, and library patrons who would otherwise lack connected devices and/or broadband Internet access services sufficient to engage in remote learning. All schools and libraries filing an application within that the initial filing period will have their applications treated as if they were simultaneously received. The initial filing period shall conclude after 45 days. If demand does not exceed available funds for the first filing window, the Wireline Competition Bureau will direct the Administrator to open a second application window for schools and libraries to seek funding for eligible equipment and services schools and libraries previously purchased to address the needs of students, school staff, and library patrons who would otherwise have lacked access to the equipment or services sufficient to engage in these activities during the COVID-19 pandemic. During this second application window, applicants will be able to submit requests for funding for purchases made from March 1, 2020 to June 30, 2021. However, in consideration of the importance of providing support for unconnected students, in the event that demand for prospective support in the first window appears to be far short of meeting current needs, the Commission may consider opening a second prospective window before opening an application window to fund previously purchased eligible equipment and services. If demand does not exceed available funds after the close of the second filing window, the Wireline Competition Bureau may direct the Administrator to open additional filing windows until the funds are exhausted or the emergency period ends, whichever is earlier.

(c) *Rules of distribution.* (1) When the filing window(s) described in paragraph (b) of this section closes, the Administrator shall calculate the total demand for support submitted by applicants during the filing window. If total demand exceeds the total support available, the Administrator shall allocate funds to these requests for support, beginning with the most economically disadvantaged schools and libraries, as determined by the schools and libraries category one discount matrix in § 54.505(c) adjusted to provide a five percent increase for rural schools and libraries, as shown in the following matrix.

Table 1 to paragraph (c)(1)

	Emergency Connectivity Fund Prioritization Matrix	
	Discount Level	
% of students eligible for National School Lunch Program	Urban	Rural
< 1.....	20	30
1-19.....	40	55
20-34.....	50	65
35-49.....	60	75
50-74.....	80	85
75-100.....	90	95

(2) Schools and libraries eligible for a 95 percent discount shall receive first priority for the funds. The Administrator shall next allocate funds toward the requests submitted by schools and libraries eligible for an 90 percent discount, then for a 85 percent discount, and shall continue committing funds in the same manner to the applicants at each descending discount level until there are no funds remaining. If the

remaining funds are not sufficient to support all of the funding requests within a particular discount level, the Administrator shall allocate funds at that discount level using the percentage of students eligible for the National School Lunch Program.

§ 54.1709 Availability period of the Emergency Connectivity Fund.

The Emergency Connectivity Fund was established by Congress in the United States Treasury through an appropriation of \$7.171 billion, to remain available until September 30, 2030.

§ 54.1710 Emergency Connectivity Fund requests for funding.

(a) *Filing of the FCC Form 471.* An eligible school, library, or consortium that includes an eligible school or library seeking to receive Emergency Connectivity Fund support for eligible equipment and services under this subpart shall submit a completed FCC Form 471 to the Administrator.

(1) The FCC Form 471 shall be signed by the person authorized to order eligible services for the eligible school, library, or consortium and shall include that person's certification under penalty of perjury that:

- (i) “I am authorized to submit this application on behalf of the above-named applicant and that based on information known to me or provided to me by employees responsible for the data being submitted, I hereby certify that the data set forth in this application has been examined and is true, accurate and complete. I acknowledge that any false statement on this application or on other documents submitted by this applicant can be punished by fine or forfeiture under the Communications Act (47 U.S.C. 502, 503(b)), or fine or imprisonment under Title 18 of the United States Code (18 U.S.C. 1001), or can lead to liability under the False Claims Act (31 U.S.C. 3729 – 3733).”
- (ii) “In addition to the foregoing, this applicant is in compliance with the rules and orders governing the Emergency Connectivity Fund Program, and I acknowledge that failure to be in compliance and remain in compliance with those rules and orders may result in the denial of funding, cancellation of funding commitments, and/or recoupment of past disbursements. I acknowledge that failure to comply with the rules and orders governing the Emergency Connectivity Fund Program could result in civil or criminal prosecution by law enforcement authorities.”
- (iii) “By signing this application, I certify that the information contained in this application is true, complete, and accurate, and the projected expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, sections 1001, 286-287 and 1341 and Title 31, sections 3729-3730 and 3801-3812).”
- (iv) The school meets the statutory definition of “elementary school” or “secondary school” as defined in § 54.1700, does not operate as for-profit businesses, and does not have endowments exceeding \$50 million.
- (v) The library or library consortia eligible for assistance from a State library administrative agency under the Library Services and Technology Act of 1996, does not operate as for-

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profit businesses, and their budgets are completely separate from any school (including, but not limited to, elementary and secondary schools, colleges, and universities).

- (vi) The school, library, or consortia listed on the FCC Form 471 application has complied with all applicable state, local, or Tribal local laws regarding procurement of services for which support is being sought.
- (vii) The school or school consortium listed on the FCC Form 471 application is only seeking support for eligible equipment and/or services provided to students and school staff who would otherwise lack connected devices and/or broadband services sufficient to engage in remote learning.
- (viii) The library or library consortium listed on the FCC Form 471 application is only seeking support for eligible equipment and/or services provided to library patrons who have signed and returned a statement that the library patron would otherwise lack access to equipment or services sufficient to meet the patron's educational needs if not for the use of the equipment or service being provided by the library.
- (ix) The school, library, or consortia is not seeking Emergency Connectivity Fund support or reimbursement for eligible equipment or services that have been purchased and reimbursed in full with other Federal pandemic-relief funding, targeted state funding, other external sources of targeted funding or targeted gifts, or eligible for discounts from the schools and libraries universal service support mechanism or other universal service support mechanism.
- (x) The applicant or the relevant student, school staff member, or library patron has received the equipment and services for which funding is sought.
- (xi) The equipment and services the school, library, or consortium purchases using Emergency Connectivity Fund support will be used primarily for educational purposes and will not be sold, resold, or transferred in consideration for money or any other thing of value, except as allowed by § 54.1713.
- (xii) The school, library, or consortium will create and maintain an equipment and service inventory as required by § 54.1715.
- (xiii) The school, library, or consortium has complied with all program rules and acknowledge that failure to do so may result in denial of discount funding and/or recovery of funding.
- (xiv) The applicant recognizes that it may be audited pursuant to its application, that it will retain for ten years any and all records related to its application, and that, if audited, it shall produce shall records at the request of any representative (including any auditor) appointed by a state education department, the Administrator, the Commission and its Office of Inspector General, or any local, state, or Federal agency with jurisdiction over the entity.
- (xv) No kickbacks, as defined in 41 U.S.C. 8701 and/or 42 U.S.C. 1320a-7b, were paid or received by the applicant to anyone in connection with the Emergency Connectivity Fund.

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(2) Applicants seeking support for new network construction or end-user equipment for datacasting services through the Emergency Connectivity Fund must also certify under penalty of perjury that they sought service from existing service providers in the relevant area and that such service providers were unable or unwilling to provide broadband Internet access services sufficient to meet the remote learning needs of their students, school staff, or library patrons.

(3) All information submitted as part of an FCC Form 471 application shall be treated as public and non-confidential by the Administrator.

(b) *Service substitution.* (1) A request by an applicant to substitute equipment or service for one identified on its FCC Form 471 must be in writing.

(2) The Administrator shall approve such written request where:

- (i) The equipment or service has the same functionality; and
- (ii) This substitution does not violate any contract provisions or state, local, or Tribal procurement law.

(3) In the event that an equipment or service substitution results in a change in the amount of support, support shall be based on the lower of either the price for the equipment or service for which support was originally requested or the price of the new, substituted equipment or service. Reimbursement for substitutions shall only be provided after the Administrator has approved a written request for substitution.

(c) *Mixed eligibility equipment and services.* If equipment or service includes both ineligible and eligible components, the applicant must remove the cost of the ineligible components of the equipment or service from the request for funding submitted to the Administrator.

§ 54.1711 Emergency Connectivity Fund requests for reimbursement.

(a) *Submission of request for reimbursement (FCC Form 472 or FCC Form 474).* Emergency Connectivity Fund Program reimbursement for the costs associated with eligible equipment and/or services shall be provided directly to an eligible school, library, consortium that includes an eligible school or library, or service provider seeking reimbursement from the Emergency Connectivity Fund Program upon submission and approval of a completed FCC Form 472 (Billed Entity Applicant Reimbursement Form) or a completed FCC Form 474 (Service Provider Invoice) to the Administrator.

(1) The FCC Form 472 shall be signed by the person authorized to submit requests for reimbursement for the eligible school, library, or consortium and shall include that person's certification under penalty of perjury that:

- (i) "I am authorized to submit this request for reimbursement on behalf of the above-named school, library or consortium and that based on information known to me or provided to me by employees responsible for the data being submitted, I hereby certify that the data set forth in this request for reimbursement has been examined and is true, accurate and complete. I acknowledge that any false statement on this request for reimbursement or on other documents submitted by this school, library or consortium can be punished by fine or forfeiture under the Communications Act (47 U.S.C. 502, 503(b)), or fine or imprisonment

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under Title 18 of the United States Code (18 U.S.C. 1001), or can lead to liability under the False Claims Act (31 U.S.C. 3729 – 3733).”

- (ii) “In addition to the foregoing, the school, library or consortium is in compliance with the rules and orders governing the Emergency Connectivity Fund Program, and I acknowledge that failure to be in compliance and remain in compliance with those rules and orders may result in the denial of funding, cancellation of funding commitments, and/or recoupment of past disbursements. I acknowledge that failure to comply with the rules and orders governing the Emergency Connectivity Fund Program could result in civil or criminal prosecution by law enforcement authorities.”
- (iii) “By signing this request for reimbursement, I certify that the information contained in this request for reimbursement is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, sections 1001, 286-287 and 1341 and Title 31, sections 3729–3730 and 3801–3812).”
- (iv) The funds sought in the request for reimbursement are for eligible equipment and/or services that were purchased or ordered in accordance with the Emergency Connectivity Fund Program rules and requirements in this subpart and received by either the school, library, or consortium, or the students, school staff, or library patrons as appropriate.
- (v) The portion of the costs eligible for reimbursement and not already paid for by another source was either paid for in full by the school, library, or consortium, or will be paid to the service provider within 30 days of receipt of funds.
- (vi) The amount for which the school, library, or consortium is seeking reimbursement from the Emergency Connectivity Fund consistent with the requirements set out in § 54.1707.
- (vii) The school, library, or consortium is not seeking Emergency Connectivity Fund reimbursement for eligible equipment and/or services that have been purchased and reimbursed in full with other Federal pandemic relief funding (e.g., the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Emergency Broadband Benefit Program, or other provisions of the American Rescue Plan), targeted state funding, other external sources of targeted funding, or targeted gifts or eligible for discounts from the schools and libraries universal service support mechanism or other universal service support mechanisms.
- (viii) The equipment and services the school, library, or consortium purchased using Emergency Connectivity Fund support will be used primarily for educational purposes as defined in § 54.1700 and that the authorized person is not willfully or knowingly requesting reimbursement for equipment or services that are not being used.
- (ix) The equipment and services the school, library, or consortium purchased will not be sold, resold, or transferred in consideration for money or any other thing of value, except as allowed by § 54.1713.

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- (x) The school, library, or consortium recognizes that it may be subject to an audit, inspection or investigation pursuant to its request for reimbursement, that it will retain for ten years any and all records related to its request for reimbursement, and will make such records and equipment purchased with Emergency Connectivity Fund reimbursement available at the request of any representative (including any auditor) appointed by a state education department, the Administrator, the Commission and its Office of Inspector General, or any local, state, or Federal agency with jurisdiction over the entity.
 - (xi) No kickbacks, as defined in 41 U.S.C. 8701 and/or 42 U.S.C. 1320a-7b, were paid or received by the applicant to anyone in connection with the Emergency Connectivity Fund.
 - (xii) No Federal subsidy made available through a program administered by the Commission that provides funds to be used for the capital expenditures necessary for the provision of advanced communications services has been or will be used to purchase, rent, lease, or otherwise obtain, any covered communications equipment or service, or maintain any covered communications equipment or service, or maintain any covered communications equipment or service previously purchased, rented, leased, or otherwise obtained, as required by § 54.10.
- (2) The FCC Form 474 shall be signed by the person authorized to submit requests for reimbursement for the service provider and shall include that person's certification under penalty of perjury that:
- (i) “I am authorized to submit this request for reimbursement on behalf of the above-named service provider and that based on information known to me or provided to me by employees responsible for the data being submitted, I hereby certify that the data set forth in this request for reimbursement has been examined and is true, accurate and complete. I acknowledge that any false statement on this request for reimbursement or on other documents submitted by this school, library or consortium can be punished by fine or forfeiture under the Communications Act (47 U.S.C. 502, 503(b)), or fine or imprisonment under Title 18 of the United States Code (18 U.S.C. 1001), or can lead to liability under the False Claims Act (31 U.S.C. 3729 – 3733).”
 - (ii) “In addition to the foregoing, the service provider is in compliance with the rules and orders governing the Emergency Connectivity Fund Program, and I acknowledge that failure to be in compliance and remain in compliance with those rules and orders may result in the denial of funding, cancellation of funding commitments, and/or recoupment of past disbursements. I acknowledge that failure to comply with the rules and orders governing the Emergency Connectivity Fund Program could result in civil or criminal prosecution by law enforcement authorities.”
 - (iii) “By signing this request for reimbursement, I certify that the information contained in this request for reimbursement is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, sections 1001, 286-287 and 1341 and Title 31, sections 3729–3730 and 3801–3812).”

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- (iv) The funds sought in the request for reimbursement are for eligible equipment and/or services that were purchased or ordered in accordance with the Emergency Connectivity Fund Program rules and requirements in this subpart and received by either the school, library, or consortium, or by students, school staff, or library patrons, as appropriate.
- (v) The amount for which the service provider is seeking reimbursement from the Emergency Connectivity Fund is consistent with the requirements set forth in § 54.1707.
- (vi) The service provider is not willfully or knowingly requesting reimbursement for services that are not being used.
- (vii) The service provider is not seeking Emergency Connectivity Fund reimbursement for eligible equipment and/or services for which it has already been paid.
- (viii) The service provider recognizes that it may be subject to an audit, inspection, or investigation pursuant to its request for reimbursement, that it will retain for ten years any and all records related to its request for reimbursement, and will make such records and equipment purchased with Emergency Connectivity Fund reimbursement available at the request of any representative (including any auditor) appointed by a state education department, the Administrator, the Commission and its Office of Inspector General, or any local, state, or Federal agency with jurisdiction over the entity.
- (ix) No kickbacks, as defined in 41 U.S.C. 8701 and/or 42 U.S.C. 1320a-7b, were paid or received by the applicant to anyone in connection with the Emergency Connectivity Fund.
- (x) No Federal subsidy made available through a program administered by the Commission that provides funds to be used for the capital expenditures necessary for the provision of advanced communications services has been or will be used to purchase, rent, lease, or otherwise obtain, any covered communications equipment or service, or maintain any covered communications equipment or service, or maintain any covered communications equipment or service previously purchased, rented, leased, or otherwise obtained, as required by § 54.10.

(b) *Required documentation.* Along with the submission of a completed FCC Form 472 or a completed FCC Form 474, an eligible school, library, consortium that includes an eligible school or library, or service provider seeking reimbursement from the Emergency Connectivity Fund must submit invoices detailing the items purchased or ordered to the Administrator at the time the FCC Form 472 or FCC Form 474 is submitted. Applicants that seek payment from the Emergency Connectivity Fund prior to paying their service provider(s) must also provide verification of payment to the service provider(s) within 30 days of receipt of funds.

(c) *Reimbursement and invoice processing.* The Administrator shall accept and review requests for reimbursement and invoices subject to the invoice filing deadlines provided in paragraph (d) of this section.

(d) *Invoice filing deadline.* Invoices must be submitted to the Administrator within 60 days from the date of the funding commitment decision letter; a revised funding commitment decision letter approving a post-commitment change or a successful appeal of previously denied or reduced funding; or service delivery date, whichever is later.

§ 54.1712 Duplicate support.

Entities participating in the Emergency Connectivity Fund may not seek Emergency Connectivity Fund support or reimbursement for eligible equipment or services that have been purchased with or reimbursed in full from other Federal pandemic-relief funding, targeted state funding, other external sources of targeted funding or targeted gifts, or eligible for discounts from the schools and libraries universal service support mechanism or other universal service support mechanisms.

§ 54.1713 Treatment, resale, and transfer of equipment.

(a) *Prohibition on resale.* Eligible equipment and services purchased with Emergency Connectivity Fund support shall not be sold, resold, or transferred in consideration of money or any other thing of value, except as provided in paragraph (b) of this section.

(b) *Disposal of obsolete equipment.* Eligible equipment purchased using Emergency Connectivity Fund support shall be considered obsolete if the equipment are at least three years old. Obsolete equipment may be resold or transferred in consideration of money or any other thing of value, disposed of, donated, or traded.

§ 54.1714 Audits, inspections, and investigations.

(a) *Audits.* Schools, libraries, consortia, and service providers shall be subject to audits and other investigations to evaluate their compliance with the statutory and regulatory requirements in this subpart for the Emergency Connectivity Fund, including those requirements pertaining to what equipment and services are purchased, what equipment and services are delivered, and how equipment and services are being used.

(b) *Inspections and investigations.* Schools, libraries, consortia, and service providers shall permit any representative (including any auditor) appointed by a state education department, the Administrator, the Commission and its Office of Inspector General, or any local, state, or Federal agency with jurisdiction over the entity to enter their premises to conduct inspections for compliance with the statutory and regulatory requirements in this subpart of the Emergency Connectivity Fund.

(c) *Production of records for audits, inspections, and investigations.* Where necessary for compliance with Federal or state privacy laws, Emergency Connectivity Fund participants may produce records regarding students, school staff, and library patrons in an anonymized or deidentified format. When requested by the Administrator or the Commission, as part of an audit or investigation, schools, libraries, and consortia must seek consent to provide personally identification information from a student who has reached the age of majority, the relevant parent/guardian of a minor student, or the school staff member or library patron prior to disclosure.

§ 54.1715 Records retention.

(a) *Equipment and service inventory requirements.* Schools, libraries, and consortia shall keep asset and service inventories as follows:

(1) For each connected device or other piece of equipment provided to an individual student, school staff member, or library patron, the asset inventory must identify:

(i) The device or equipment type (i.e. laptop, tablet, mobile hotspot, modem, router);

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(ii) The device or equipment make/model;

(iii) The device or equipment serial number;

(iv) The full name of the person to whom the device or other piece of equipment was provided; and

(v) The dates the device or other piece of equipment was loaned out and returned to the school or library, or the date the school or library was notified that the device or other piece of equipment was missing, lost, or damaged.

(2) For each connected device or other piece of eligible equipment not provided to an individual student, school staff member, or library patron, but used to provide service to multiple eligible users, the asset inventory must contain:

(i) The device type or equipment type (i.e. laptop, tablet, mobile hotspot, modem, router);

(ii) The device or equipment make/model;

(iii) The device or equipment serial number;

(iv) The name of the school or library employee responsible for that device or equipment; and

(v) The dates the device or equipment was in service.

(3) For services provided to individual students, school staff, or library patrons, the service inventory must contain:

(i) The type of service provided (i.e., DSL, cable, fiber, fixed wireless, satellite, mobile wireless);

(ii) The service plan details, including upload and download speeds and monthly data cap;

(iii) The full name of the person(s) to whom the service was provided;

(iv) The service address (for fixed broadband service only);

(v) The installation date of the service (for fixed broadband service only); and

(vi) The last date of service, as applicable (for fixed broadband service only).

(4) For services not provided to an individual student, school staff member, or library patron, but used to provide service to multiple eligible users, the service inventory must contain:

(i) The type of service provided (i.e., DSL, cable, fiber, fixed wireless, satellite, mobile wireless);

(ii) The service plan details, including upload and download speeds and monthly data cap;

- (iii) The name of the school or library employee responsible for the service;
- (iv) A description of the intended service area;
- (v) The service address (for fixed broadband service only);
- (vi) The installation date of the service (for fixed broadband service only); and
- (vii) The last date of service, as applicable (for fixed broadband service only).

(b) *Records retention.* All Emergency Connectivity Fund participants shall retain records related to their participation in the program sufficient to demonstrate compliance with all program rules in this subpart for at least ten (10) years from the last date of service or delivery of equipment.

(c) *Production of records.* All Emergency Connectivity Fund participants shall present such records upon request any representative (including any auditor) appointed by a state education department, the Administrator, the Commission and its Office of Inspector General, or any local, state, or Federal agency with jurisdiction over the entity. When requested by the Administrator or the Commission, schools, libraries, and consortia must seek consent to provide personally identification information from a student who has reached the age of majority, the relevant parent/guardian of a minor student, or the school staff member or library patron prior to disclosure.

§ 54.1716 Children’s Internet Protection Act certifications.

(a) *Definitions*—(1) *School.* For the purposes of the certification requirements of this section, school means school, school board, school district, local education agency or other authority responsible for administration of a school.

(2) *Library.* For the purposes of the certification requirements of this section, library means library, library board or authority responsible for administration of a library.

(3) *Billed entity.* Billed entity is defined in § 54.1700. In the case of a consortium, the billed entity is the lead member of the consortium.

(4) *Connected devices.* Connected devices are defined in § 54.1700.

(b) *Who is required to make certifications?* (1) A school or library that receives support for Internet access, Internet service, or internal connections services under the Federal universal service support mechanism for schools and libraries, or Internet access or Internet service through the Emergency Connectivity Fund, must make such certifications as described in paragraph (c) of this section. The certifications required and described in paragraph (c) of this section must be made in each funding year.

(2) A school or library that receives support for connected devices through the Emergency Connectivity Fund and uses Internet access or Internet service funded through the Federal universal service support mechanism for schools and libraries or through the Emergency Connectivity Fund must make the certifications as described in paragraph (c) of this section. The certifications required and described in paragraph (c) of this section must be made in each funding year.

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(3) Schools and libraries that are not receiving support for Internet access, Internet service, or internal connections under the Federal universal service support mechanism for schools and libraries; Internet access or Internet service through the Emergency Connectivity Fund; or connected devices that do not use Internet access or Internet service funded through the Federal universal service support mechanism for schools and libraries or the Emergency Connectivity Fund are not subject to the requirements in 47 U.S.C. 254(h) and (l), but must indicate, pursuant to the certification requirements in paragraph (c) of this section, that they are not receiving support for such services or that the connected devices do not use Internet access or Internet service funded through the Federal universal service support mechanism for schools and libraries or the Emergency Connectivity Fund.

(c) *Certifications required under 47 U.S.C. 254(h) and (l).* (1) An Emergency Connectivity Fund applicant need not complete additional Children's Internet Protection Act (CIPA) compliance certifications if the applicant has already certified its CIPA compliance for the relevant funding year (i.e., has certified its compliance in an FCC Form 486 or FCC Form 479).

(2) Emergency Connectivity Fund applicants that have not already certified their CIPA compliance for an E-Rate application for the relevant funding year (i.e., have not completed a FCC Form 486 or FCC Form 479), will be required to certify:

(i) That they are in compliance with CIPA requirements under sections 254(h) and (l);

(ii) That they are undertaking the actions necessary to comply with CIPA requirements as part of their request for support through the Emergency Connectivity Fund; or

(iii) If applicable, that the requirements of CIPA do not apply, because the applicant is not receiving support for Internet access, Internet service, or internal connections under the Federal universal service support mechanism for schools and libraries or Internet access or Internet service through the Emergency Connectivity Fund, or the connected devices do not use Internet access or Internet service funded through the Federal universal support mechanism for schools and libraries or the Emergency Connectivity Fund.

(d) *Failure to provide certifications*—(1) *Schools and libraries.* A school or library that knowingly fails to submit certifications as required by this section shall not be eligible for support through the Emergency Connectivity Fund until such certifications are submitted.

(2) *Consortia.* A billed entity's knowing failure to collect the required certifications from its eligible school and library members or knowing failure to certify that it collected the required certifications shall render the entire consortium ineligible for support through the Emergency Connectivity Fund.

(3) *Reestablishing eligibility.* At any time, a school or library deemed ineligible for equipment and services under the Emergency Connectivity Fund because of failure to submit certifications required by this section may reestablish eligibility for support by providing the required certifications to the Administrator and the Commission.

(e) *Failure to comply with the certifications*—(1) *Schools and libraries.* A school or library that knowingly fails to comply with the certifications required by this section must reimburse any funds and support received under the Emergency Connectivity Fund for the period in which there was noncompliance.

(2) *Consortia*. In the case of consortium applications, the eligibility for support of consortium members who comply with the certification requirements of this section shall not be affected by the failure of other school or library consortium members to comply with such requirements.

(3) *Reestablishing compliance*. At any time, a school or library deemed ineligible for support through the Emergency Connectivity Fund for failure to comply with the certification requirements of this section and that has been directed to reimburse the program for support received during the period of noncompliance may reestablish compliance by complying with the certification requirements under this section. Upon submittal to the Commission of a certification or other appropriate evidence of such remedy, the school or library shall be eligible for support through the Emergency Connectivity Fund.

(f) *Waivers based on state or local procurement rules and regulations and competitive bidding requirements*. Waivers shall be granted to schools and libraries when the authority responsible for making the certifications required by this section cannot make the required certifications because its state or local procurement rules or regulations or competitive bidding requirements prevent the making of the certification otherwise required. The waiver shall be granted upon the provision, by the authority responsible for making the certifications on behalf of schools or libraries, that the schools or libraries will be brought into compliance with the requirements of this section before the close of the relevant funding year.

§ 54.1717 Administrator of the Emergency Connectivity Fund.

(a) The Universal Service Administrative Company is appointed the permanent Administrator of the Emergency Connectivity Fund and shall be responsible for administering the Emergency Connectivity Fund.

(b) The Administrator shall be responsible for reviewing applications for funding, recommending funding commitments, issuing funding commitment decision letters, reviewing invoices and recommending payment of funds, as well as other administration-related duties.

(c) The Administrator may not make policy, interpret unclear provisions of statutes or rules, or interpret the intent of Congress. Where statutes or the Commission's rules in this subpart are unclear, or do not address a particular situation, the Administrator shall seek guidance from the Commission.

(d) The Administrator may advocate positions before the Commission and its staff only on administrative matters relating to the Emergency Connectivity Fund.

(e) The Administrator shall create and maintain a website, as defined in § 54.5, on which applications for services will be posted on behalf of schools and libraries.

(f) The Administrator shall provide the Commission full access to the data collected pursuant to the administration of the Emergency Connectivity Fund.

(g) The administrator shall provide performance measurements pertaining to the Emergency Connectivity Fund as requested by the Commission by order or otherwise.

(h) The Commission shall have the authority to audit all entities reporting data to the Administrator regarding the Emergency Connectivity Fund. When the Commission, the Administrator, or any independent auditor hired by the Commission or the Administrator, conducts audits of the participants of

the Emergency Connectivity Fund, such audits shall be conducted in accordance with generally accepted government auditing standards.

(i) The Commission shall establish procedures to verify support amounts provided by the Emergency Connectivity Fund and may suspend or delay support amounts if a party fails to provide adequate verification of the support amounts provided upon reasonable request from the Administrator.

(j) The Administrator shall make available to whomever the Commission directs, free of charge, any and all intellectual property, including, but not limited to, all records and information generated by or resulting from its role in administering the support mechanisms, if its participation in administering the Emergency Connectivity Fund ends. If its participation in administering the Emergency Connectivity Fund ends, the Administrator shall be subject to close-out audits at the end of its term.

§ 54.1718 Appeal and waiver requests.

(a) *Parties permitted to seek review of Administrator decision.* (1) Any party aggrieved by an action taken by the Administrator must first seek review from the Administrator.

(2) Any party aggrieved by an action taken by the Administrator under paragraph (a)(1) of this section may seek review from the Federal Communications Commission as set forth in paragraph (b) of this section.

(3) Parties seeking waivers of the Commission's rules in this subpart shall seek relief directly from the Commission and need not first file an action for review from the Administrator under paragraph (a)(1) of this section.

(b) *Filing deadlines.* (1) An affected party requesting review of a decision by the Administrator pursuant to paragraph (a)(1) of this section shall file such a request within thirty (30) days from the date the Administrator issues a decision.

(2) An affected party requesting review by the Commission pursuant to paragraph (a)(2) of this section of a decision by the Administrator under paragraph (a)(1) of this section shall file such a request with the Commission within thirty (30) days from the date of the Administrator's decision. Further, any party seeking a waiver of the Commission's rules under paragraph (a)(3) of this section shall file a request for such waiver within thirty (30) days from the date of the Administrator's initial decision, or, if an appeal is filed under paragraph (a)(1) of this section, within thirty days from the date of the Administrator's decision resolving such an appeal.

(3) In all cases of requests for review filed under paragraphs (a)(1) through (3) of this section, the request for review shall be deemed filed on the postmark date. If the postmark date cannot be determined, the applicant must file a sworn affidavit stating the date that the request for review was mailed.

(4) Parties shall adhere to the time periods for filing oppositions and replies set forth in § 1.45 of this chapter.

(c) *General filing requirements.* (1) Except as otherwise provided in this section, a request for review of an Administrator decision by the Federal Communications Commission shall be filed with the Federal Communications Commission's Office of the Secretary in accordance with the general requirements set forth in part 1 of this chapter. The request for review shall be captioned "In the Matter of Request for

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Review by (name of party seeking review) of Decision of Universal Service Administrator” and shall reference the applicable docket numbers.

(2) A request for review pursuant to paragraphs (a)(1) through (3) of this section shall contain:

(i) A statement setting forth the party's interest in the matter presented for review;

(ii) A full statement of relevant, material facts with supporting affidavits and documentation;

(iii) The question presented for review, with reference, where appropriate, to the relevant Federal Communications Commission rule, Commission order, or statutory provision; and

(iv) A statement of the relief sought and the relevant statutory or regulatory provision pursuant to which such relief is sought.

(3) A copy of a request for review that is submitted to the Federal Communications Commission shall be served on the Administrator consistent with the requirement for service of documents set forth in § 1.47 of this chapter.

(4) If a request for review filed pursuant to paragraphs (a)(1) through (3) of this section alleges prohibitive conduct on the part of a third party, such request for review shall be served on the third party consistent with the requirement for service of documents set forth in § 1.47 of this chapter. The third party may file a response to the request for review. Any response filed by the third party shall adhere to the time period for filing replies set forth in § 1.45 of this chapter and the requirement for service of documents set forth in § 1.47 of this chapter.

(d) *Review by the Wireline Competition Bureau or the Commission.* (1) Requests for review of Administrator decisions that are submitted to the Federal Communications Commission shall be considered and acted upon by the Wireline Competition Bureau; provided, however, that requests for review that raise novel questions of fact, law, or policy shall be considered by the full Commission.

(2) An affected party may seek review of a decision issued under delegated authority by the Wireline Competition Bureau pursuant to the rules set forth in part 1 of this chapter.

(e) *Standard of review.* (1) The Wireline Competition Bureau shall conduct *de novo* review of request for review of decisions issued by the Administrator.

(2) The Federal Communications Commission shall conduct *de novo* review of requests for review of decisions by the Administrator that involve novel questions of fact, law, or policy; provided, however, that the Commission shall not conduct *de novo* review of decisions issued by the Wireline Competition Bureau under delegated authority.

(f) *Emergency Connectivity Fund disbursements during pendency of a request for review and Administrator decision.* When a party has sought review of an Administrator decision under paragraphs (a)(1) through (3) of this section, the Commission shall not process a request for the reimbursement of eligible equipment and/or services until a final decision has been issued either by the Administrator or by the Federal Communications Commission; provided, however, that the Commission may authorize disbursement of funds for any amount of support that is not the subject of an appeal.