

FCC FACT SHEET***Clarifying that the Use of Wi-Fi on School Buses is Eligible for E-Rate Funding**

Declaratory Ruling – WC Docket No. 13-184

Background: The E-Rate program was authorized by Congress as part of the Telecommunications Act of 1996 and created by the Commission in 1997 to, among other things, enhance, to the extent technically feasible and economically reasonable, access to advanced telecommunications and information services for all public and nonprofit elementary and secondary school classrooms and libraries. Through the E-Rate program, eligible schools, libraries, and consortia (comprised of eligible schools and libraries) may request universal service support for “category one” services (which provide connectivity, including broadband connectivity, to eligible school and library locations) and “category two” services (which provide connectivity within eligible school and library locations), primarily for educational purposes. In the case of schools, the Commission has defined “educational purposes” as “activities that are integral, immediate, and proximate to the education of students.”

Although the E-Rate program does not provide support for most off-campus services, the Commission has permitted the use of E-Rate-funded services in certain limited circumstances. Therefore, consistent with the Commission’s past determinations regarding other eligible off-campus use of E-Rate-supported services, this Declaratory Ruling, if adopted, clarifies that the use of Wi-Fi, or other similar access point technologies, on school buses is an educational purpose and the provision of such service is therefore eligible for E-Rate funding. Accordingly, the item directs the Wireline Competition Bureau (Bureau) to fund the provision of these services, as well as any E-Rate-eligible equipment needed to enable them, as part of the funding year 2024 eligible services list proceeding and to seek comment on the specific services and equipment that should be funded for this purpose.

What the Declaratory Ruling Would Do:

- Clarifies that use the use of Wi-Fi, or other similar access point technologies, on school buses is an educational purpose and the provision of such service is therefore eligible for E-Rate funding.
- Directs the Bureau to fund the provision of these services, as well as any E-Rate-eligible equipment needed to enable them, as part of the funding year 2024 eligible services list proceeding.
- Directs the Bureau to issue a supplemental funding year 2024 Eligible Services List Public Notice seeking comment on the specific services and equipment that should be funded for this purpose, and on the costs associated with funding these services through the E-Rate program.
- Enhances the benefits and the reach of the E-Rate program to ensure that the millions of students caught in the Homework Gap can more fully engage in their learning.

* This document is being released as part of a “permit-but-disclose” proceeding. Any presentations or views on the subject expressed to the Commission or its staff, including by email, must be filed in WC Docket No. 13-184, which may be accessed via the Electronic Comment Filing System (<https://www.fcc.gov/ecfs/>). Before filing, participants should familiarize themselves with the Commission’s *ex parte* rules, including the general prohibition on presentations (written and oral) on matters listed on the Sunshine Agenda, which is typically released a week prior to the Commission’s meeting. *See* 47 CFR § 1.1200 *et seq.*

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

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

DECLARATORY RULING*

Adopted: []

Released: []

By the Commission:

I. INTRODUCTION

1. In this Declaratory Ruling, we take an important step to address the educational needs of the millions of students caught in the "Homework Gap" by clarifying that the use of Wi-Fi, or other similar technologies that act as an access point, on school buses is an educational purpose as defined by E-Rate program rules and, therefore, the provision of such service is eligible for E-Rate funding. Without Internet connectivity at home, many students are unable to fully engage in their education and unable to complete homework or other assignments before or after school hours.

2. Today, we seek to narrow this gap by clarifying that the use of Wi-Fi, or other similar access point technologies, on school buses is an educational purpose, and the provision of such service, including the equipment needed to provide such service, is eligible for E-Rate funding, consistent with the Commission's past determinations regarding other eligible off-campus uses of E-Rate-supported services. As such, we direct the Wireline Competition Bureau (Bureau) to fund the provision of these services, as well as any E-Rate-eligible equipment needed to enable these services, as part of the funding year 2024 eligible services list proceeding.

* This document has been circulated for tentative consideration by the Commission at its October open meeting. The issues referenced in this document and the Commission's ultimate resolution of those issues remain under consideration and subject to change. This document does not constitute any official action by the Commission. However, the Chairwoman has determined that, in the interest of promoting the public's ability to understand the nature and scope of issues under consideration, the public interest would be served by making this document publicly available. The FCC's ex parte rules apply and presentations are subject to "permit-but-disclose" ex parte rules.

1 Common Sense Media & Boston Consulting Group, Closing the Digital Divide Benefits Everyone, Not Just the Disconnected at 5 (2022), https://www.common sense media.org/sites/default/files/research/report/2022-cs-bcg-closing-digital-divide_final-release-3-for-web.pdf (Common Sense 2022 Report) (highlighting that there are at least 16 million students nationwide that live in homes without a broadband connection).

2 The Bureau annually updates the eligible services list, which specifies the services and products that are eligible for E-Rate funding each funding year. See 47 CFR § 54.502(a) ("All supported services are listed in the Eligible Services List as updated annually in accordance with paragraph (d) of this section."); see also 47 CFR § 54.502(e)

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II. BACKGROUND

3. *E-Rate Program.* The Commission has a long history of providing support for the provision of broadband services to schools and libraries through the E-Rate program, formally known as the schools and libraries universal service support mechanism. The E-Rate program was authorized by Congress as part of the Telecommunications Act of 1996, and created by the Commission in 1997 to, among other things, enhance, to the extent technically feasible and economically reasonable, access to advanced telecommunications and information services for all public and nonprofit elementary and secondary school classrooms and libraries.³ The E-Rate program allows eligible schools, libraries, and consortia (comprised of eligible schools and libraries) to request universal service support for what are called “category one” services (which provide connectivity, including broadband connectivity, to eligible school and library locations) and “category two” services (which provide connectivity *within* eligible school and library locations).⁴

4. Section 254(h)(1)(B) of the Communications Act requires telecommunications carriers to provide services to schools and libraries for “educational purposes.”⁵ As a result, our E-Rate rules require schools and libraries to use E-Rate-supported services “primarily for educational purposes.”⁶ In the case of schools, the Commission has defined “educational purposes” as, “activities that are integral, immediate, and proximate to the education of students.”⁷ Recognizing that the technology needs of E-Rate program participants are complex and unique to each participant, the Commission established a presumption that activities that occur in a school or on a school campus serve an educational purpose, and therefore, services used there are eligible for E-Rate funding.⁸ The E-Rate program does not provide support for most off-campus services, and E-Rate applicants are, therefore, generally required to cost-allocate out of their funding requests any portion of eligible equipment or services that are used off-campus.⁹

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(detailing the procedures for seeking comment on the draft eligible services list). We further note that the Administrator (i.e., the Universal Service Administrative Company (USAC)) is required to submit a draft proposed eligible services list to the Commission by March 30 of each year. *Id.*

³ See 47 U.S.C. § 254(h)(2)(A).

⁴ 47 CFR §§ 54.501, 54.502. Category one services generally include data transmission and Internet access services, while category two services include internal connections (e.g., Wi-Fi, routers, switches), managed internal broadband services (e.g., managed Wi-Fi), and basic maintenance of internal connections. 47 CFR § 54.502(a)(1)-(2).

⁵ 47 U.S.C. § 254(h)(1)(B).

⁶ *Schools and Libraries Universal Service Support Mechanism*, WC Docket No. 02-6, Sixth Report and Order, 25 FCC Rcd 18762, 18774, para. 22 (2010) (*Schools and Libraries Sixth Report and Order*) (amending E-Rate program rules to require that services be used *primarily* for educational purposes and explaining that “[t]o primarily use services supported by E-rate, E-rate recipients must ensure that students always get first priority in use of the schools’ resources”). In amending the rules, the Commission permitted schools to allow the general public to access E-Rate-funded services when classes are not in session subject to certain conditions: (1) they may not request more funding than is necessary to serve their current student population; (2) any community use of E-Rate-funded services at a school facility must be limited to non-operating hours of the school and to community members who access Internet while on the school’s campus; and (3) they may not charge for the use of these E-Rate-funded services. *Id.* at 18775-76, paras. 24-26.

⁷ *Id.* (clarifying the meaning of educational purposes); 47 CFR § 54.500 (defining “educational purposes”).

⁸ *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Second Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 9202, 9208, para. 17 (2003) (*Schools and Libraries Second Report and Order*).

⁹ See *Modernizing the E-Rate Program for Schools and Libraries*, WC Docket No. 13-184, Order, DA 22-1313, 2022 WL 17886489, at *11 (WCB Dec. 14, 2022) (*FY 2023 Eligible Services List Order*) (adopting the eligible

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5. In some instances, however, the Commission has allowed E-Rate support for off-campus services, finding that the off-campus use of such services is “integral, immediate, and proximate to the education of students or the provision of library services to library patrons, and thus, would be considered to be an educational purpose.”¹⁰ For example, in 2003, the Commission determined that the following off-site activities are permissible: “a school bus driver’s use of wireless telecommunications services while delivering children to and from school, a library staff’s person’s use of wireless telecommunications services on a library’s mobile library unit van, and the use by teachers or other school staff of wireless telecommunications services while accompanying students on a field trip or sporting event.”¹¹ Similarly, recognizing the unique challenges of certain residential student populations, the Commission in 2010 began allowing E-Rate support for eligible services serving the residential areas of schools that serve unique populations— including schools on Tribal lands and schools designed to serve students with medical needs, among others—because such services are used primarily, if not exclusively, for educational purposes.¹² Paramount to the Commission’s determination was its finding that such residential schools serve students whose educational needs may not otherwise be met without attending these schools and that limiting support to these types of residential schools, rather than expanding support to any school with a dormitory or residential facility on its grounds, minimized the potential impact on limited E-Rate funding, while targeting those students with the most unique needs.¹³

6. *Requests for School Bus Wi-Fi Eligibility.* Over the course of the program’s existence, the Commission has received requests from E-Rate stakeholders asking that the services and equipment that enable access to Wi-Fi on school buses be made eligible for E-Rate funding to enhance broadband access to students who may not have reliable access outside of school, and these requests have intensified over the last few years. Stakeholders have requested that these services and equipment be eligible for funding in part because of the COVID-19 pandemic,¹⁴ but also because many students who do not have broadband connectivity at home could use the school bus Wi-Fi to complete homework and other assignments while traveling to and from school.¹⁵ In February 2021, the Bureau issued a Public Notice seeking comment on several petitions for waiver requesting emergency relief through the E-Rate program for the purpose of enabling remote learning during the pandemic,¹⁶ including through the provision of Wi-Fi on school buses.¹⁷ In response, several commenters urged the Commission to provide E-Rate

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services list for funding year 2023, which requires that off-campus use be cost-allocated from a funding request, among other things); 47 CFR § 54.504(e) (detailing the requirement to cost-allocate ineligible services from E-Rate funding requests).

¹⁰ See *Schools and Libraries Second Report and Order*, 18 FCC Rcd at 9208-9209, para. 19.

¹¹ See *id.* at 9208-9209, n.28. In 2010, the Commission also launched a pilot program—E-Rate Deployed Ubiquitously (EDU2011)—to investigate the merits and challenges of wireless off-premises connectivity services for mobile learning devices. *Schools and Libraries Sixth Report and Order*, 25 FCC Rcd at 18783-87, paras. 41-50. As part of this pilot program, the Commission authorized up to \$10 million for funding year 2011 to support a small number of innovative, interactive off-premises wireless connectivity projects for schools and libraries. *Id.* at 18785-86, para. 46.

¹² See *Schools and Libraries Sixth Report and Order*, 25 FCC Rcd at 18779, paras. 31-32.

¹³ *Id.*

¹⁴ See, e.g., *infra* notes 17, 19, and 21.

¹⁵ See, e.g., *infra* note 18.

¹⁶ *Wireline Competition Bureau Seeks Comment on Petitions for Emergency Relief to Allow the Use of E-Rate Funds to Support Remote Learning During the COVID-19 Pandemic*, WC Docket No. 21-31, Public Notice, 36 FCC Rcd 1304 (WCB 2021) (*Remote Learning Public Notice*).

¹⁷ See Petition for Expedited Declaratory Ruling and Waivers filed by the Schools, Health & Libraries Broadband Coalition, et al., WC Docket No. 13-184, at 8-10 (filed Jan. 26, 2021),

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support for services and equipment enabling Wi-Fi on school buses on a permanent basis,¹⁸ noting the impact that outfitting buses to provide connectivity has had on their communities.¹⁹ More recently, commenters in response to the Bureau's *FY 2022 Eligible Services List Public Notice* reiterated the request to find the provision of Wi-Fi on school buses eligible,²⁰ with numerous commenters arguing that the use of Wi-Fi on school buses serves an educational purpose and should therefore be eligible for E-Rate support.²¹

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<https://www.fcc.gov/ecfs/filing/101260036427898> (SHLB Petition) (arguing that connectivity solutions to expand broadband accessibility for remote learning during the pandemic, including school bus Wi-Fi in targeted locations, are for educational purposes); Petition for Emergency Waiver filed by the Navajo Nation, CC Docket No. 02-6 (filed Apr. 30, 2020), <https://www.fcc.gov/ecfs/filing/10501013173531> (Navajo Nation Petition) (seeking to equip school buses with Wi-Fi to make library service available remotely). Although the *Remote Learning Public Notice* sought comment on these petitions, the Bureau did not explicitly seek comment on the Wi-Fi on school buses propositions within the public notice.

¹⁸ See, e.g., E-rate Management Professionals Association Comments, WC Docket No. 21-31, at 14 (rec. Feb. 16, 2021) (E-mpa Remote Learning Comments) (urging the Commission to make Internet service on school buses permanently eligible for E-Rate support because it would allow students to use the significant time spent on buses for learning and studies show it is "affordable within the existing E-rate funding structure"); Aurora Institute Comments, WC Docket No. 21-31, at 5 (rec. Feb. 16, 2021) (recommending the Commission add Wi-Fi services on school buses to the eligible services list); New Mexico Public School Facilities Authority Comments, WC Docket No. 21-31, at 3, 5-6 (rec. Feb. 16, 2021) (New Mexico PSFA Remote Learning Comments) (requesting Wi-Fi on school buses to be eligible for E-Rate support because it "would allow students to make effective use of their time in transit and provides a greater benefit to those students that do not have access at home or work after school"); Illinois Office of Broadband Comments, WC Docket No. 21-31, at 7 (rec. Feb. 16, 2021) (noting that "broadband buses" can be a short-term or a long-term solution for situations where mobile hotspots or wireline network expansion fall short); West Virginia Department of Education Reply, WC Docket No. 21-31, at 2-3 (rec. Feb. 26, 2021) (WVDE Remote Learning Reply) (arguing that allowing students to have access during transportation to and from school and other student activities to work on assignments "has been a sensible way to meet the homework gap demands both during pandemic and prior" and explaining the burdensome process of cost-allocating 190 school buses providing Wi-Fi to the community).

¹⁹ New Mexico PSFA Remote Learning Comments at 5 (describing how a New Mexico school district partnered with Google to deploy Wi-Fi on buses for "rolling study halls" to allow students to complete homework on long commutes home); New America's Open Technology Institute & Education Policy Program, Public Knowledge, Consumer Reports, the Benton Institute for Broadband & Society, and Access Humboldt Comments, WC Docket No. 21-31, at 20-21 (rec. Feb. 16, 2021) (stating that deploying Wi-Fi on buses has become a common strategy for school districts nationwide to expand connectivity for students who lack access at home); E-mpa Remote Learning Comments at 9-10 (explaining how one Georgia school system uses its own resources for "smartbuses" to reach students with limited or no Internet access); WVDE Remote Learning Reply at 3 (explaining how a West Virginia school district deployed school buses during a 2016 flood to ensure students impacted by the disaster were still able to complete assignments).

²⁰ *Wireline Competition Bureau Seeks Comment on Proposed Eligible Services List for the E-Rate Program*, WC Docket No. 13-184, Public Notice, DA 21-1062, 1 (WCB Aug. 27, 2021) (*FY 2022 Eligible Services List Public Notice*). Commenters in response to the Bureau's *FY 2023 Eligible Service List Public Notice* have similarly urged the Commission to make Wi-Fi on school buses eligible for E-Rate support and have expressed support for the adoption of this Declaratory Ruling, which Chairwoman Rosenworcel initially circulated on May 11, 2022. See, e.g., SpaceX Comments, WC Docket No. 13-184, at 1-2 (rec. Sept. 21, 2022); see also Press Release, FCC, Chairwoman Rosenworcel Circulates Ruling Making Wi-Fi on School Buses Eligible for E-Rate Support (May 11, 2022); Letter from Indra Sehdev Chalk, T-Mobile USA, Inc. to Marlene H. Dortch, Secretary, FCC, WC Docket No. 13-184, at 2 (filed Sept. 15, 2023) (expressing support for the Learn Without Limits Initiative, including adoption of this Declaratory Ruling).

²¹ See, e.g., CoSN Comments, WC Docket No. 13-184, at 4 (rec. Sept. 27, 2021) (explaining that school buses can serve as a mobile educational facility and Wi-Fi services on school buses should be eligible); SHLB Comments, WC Docket No. 13-184, at 2 (rec. Sept. 27, 2021) (arguing that students' use of Wi-Fi services on school buses clearly

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7. *Emergency Connectivity Fund Program.* As part of the American Rescue Plan Act of 2021, Congress appropriated \$7.171 billion to the Commission to promulgate rules providing for the distribution of funding from the Emergency Connectivity Fund to eligible schools and libraries for the purchase of eligible equipment and/or advanced telecommunications and information services for use by students, school staff, and library patrons at locations that include locations other than a school or library during the COVID-19 emergency period.²² For purposes of the Emergency Connectivity Fund, section 7402 of the American Rescue Plan Act defines the COVID-19 emergency period as beginning on the date the Secretary of Health and Human Services determined that a public health emergency exists as a result of COVID-19 pursuant to section 319 of the Public Health Service Act,²³ and ending on the June 30 that first occurs after the date that is one year after the Secretary of Health and Human Services determines that a public health emergency no longer exists.²⁴ On May 11, 2023, the U.S. Department of Health and Human Services permitted the COVID-19 public health emergency to expire,²⁵ and therefore, Emergency Connectivity Fund program will sunset on June 30, 2024.²⁶

8. On May 10, 2021, the Commission adopted a Report and Order establishing the Emergency Connectivity Fund program to distribute the congressionally appropriated funding to eligible schools and libraries for the purchase of eligible equipment and/or services needed to support remote learning during the COVID-19 emergency period.²⁷ Over the past two years, the Emergency Connectivity Fund program has provided funding for connecting students, school staff, and library patrons off-campus, which includes funding for the purchase of Wi-Fi hotspots and services for school

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serves an educational purpose and should be eligible under section 254); Microsoft Corporation Reply Comments, WC Docket No. 13-184, at 2 (rec. Oct. 12, 2021) (arguing that the provision of Wi-Fi services on school buses satisfies the program's educational purpose requirement and should be funded); Urban Education Network of Iowa Comments (requesting Wi-Fi on school buses to be eligible for E-Rate support); Rural School Advocates of Iowa Comments, WC Docket No. 13-184 (rec. Oct. 13, 2021) (same); E-rate Provider Services Reply Comments, WC Docket No. 13-184, at 2-3 (rec. Oct. 11, 2021) (same); Wisconsin Department of Public Instruction Reply Comments, WC Docket No. 13-184, at 1-2 (rec. Oct. 12, 2021) (WIDPI FY 2022 ESL Reply) (same); Information Technology Industry Council Reply Comments, WC Docket No. 13-184, at 2-4 (rec. Oct. 12, 2021) (same); Cradlepoint Reply Comments, WC Docket No. 13-184, at 2 (rec. Oct. 12, 2021) (requesting Wi-Fi on school buses and related equipment to be eligible for support).

²² American Rescue Plan Act, 2021, H.R. 1319, Pub. L. No. 117-2, 117th Cong., tit. VII, § 7402(a)(1)-(2) (2021) (enacted), available at <https://www.congress.gov/bill/117th-congress/house-bill/1319/text> (American Rescue Plan Act) (enrolled bill).

²³ See H.R. 1319, tit. VII, § 7402(d)(5)(A). The Public Health Emergency concerning COVID-19 was originally declared on January 30, 2020 "as in existence since January 27, 2020," by the Secretary of HHS, pursuant to section 319 of the Public Health Service Act. See 47 U.S.C. § 247d.

²⁴ See H.R. 1319, tit. VII, § 7402(d)(5)(B); see also 47 U.S.C. § 247d.

²⁵ See News Release, Department of Health and Human Services (HHS), HHS Secretary Xavier Becerra Statement on End of the COVID-19 Public Health Emergency (May 11, 2023), <https://www.hhs.gov/about/news/2023/05/11/hhs-secretary-xavier-becerra-statement-on-end-of-the-covid-19-public-health-emergency.html>; Department of Health and Human Services (HHS), COVID-19 Public Health Emergency (PHE), <https://www.hhs.gov/coronavirus/covid-19-public-health-emergency/index.html> (last visited June 22, 2023); see also *Wireline Competition Bureau and Office of the Managing Director Provide Guidance on Emergency Connectivity Fund Program Upon Termination of the Emergency Period*, WC Docket No. 21-93, Public Notice, DA 23-406, 2023 WL 3579198 (WCB May 12, 2023) (announcing June 30, 2024 as the sunset date for the Emergency Connectivity Fund program).

²⁶ See H.R. 1319, tit. VII, § 7402(d)(5)(B).

²⁷ See generally *Establishing the Emergency Connectivity Fund to Close the Homework Gap*; WC Docket No. 21-93, Report and Order, 36 FCC Rcd 8696 (2021) (*Emergency Connectivity Fund Report and Order*).

buses and library bookmobiles.²⁸ To date, the Commission has committed approximately \$58.2 million in funding for the purchase of Wi-Fi hotspots and broadband services for school buses to provide off-campus broadband connectivity to students and school staff who currently lack sufficient broadband access.²⁹

III. DISCUSSION

9. In this Declaratory Ruling, we clarify that the use of Wi-Fi, or other similar access point technologies, on school buses serves an educational purpose and, therefore, the service and equipment that enable it are eligible for E-Rate funding. Specifically, given the lack of a reliable broadband connection at students' homes and the need for connectivity to complete homework and other assignments before and after school hours,³⁰ we find that the use of these services on school buses is integral, immediate, and proximate to the education of students. In addition, because the connectivity provided on school buses will serve students who otherwise cannot complete their homework before or after school hours, we find that the use of these services will be primarily for educational purposes consistent with our rules and section 254 of the Act.³¹ Accordingly, we direct the Bureau to fund these services and seek comment on which specific services and equipment to fund as part of the funding year 2024 eligible services list proceeding.³²

10. As explained above, the Commission has previously determined that certain off-campus use of E-Rate-eligible services is considered an educational purpose, including the use of eligible services in the residential areas of certain residential schools that serve unique populations.³³ Among the reasons for finding that the use of these services is an educational purpose, the Commission explained that providing support to the residential areas of these schools would "facilitate ongoing access to educational learning materials beyond the normal school day and increase the ability of those students to complete homework assignments, such as those that require broadband access for research projects, after school hours."³⁴ Because the vast majority of students today require a reliable broadband connection to complete homework assignments, and given the lack of connectivity in students' homes, we similarly find that the use of Wi-Fi, or other similar access point technologies, on school buses is critical to meeting the ongoing educational needs of students and their ability to meaningfully engage in learning. In addition, because students can spend hours on school buses traveling to and from school and other school-related

²⁸ *Id.* at 8727, para. 61 (allowing schools and libraries to use Emergency Connectivity Fund program support to purchase Wi-Fi hotspots for school buses and bookmobiles to provide off-campus broadband services to students, school staff, and library patrons who currently lack sufficient broadband access).

²⁹ See Universal Service Administrative Company, *Emergency Connectivity Fund FCC Form 471*, <https://opendata.usac.org/Emergency-Connectivity-Fund/Emergency-Connectivity-Fund-FCC-Form-471/i5j4-3rvr> (last visited Sept. 21, 2023) (reporting data on what equipment and services for school buses have been requested in the Emergency Connectivity Fund program to date). This number is derived by searching for "buses" in the narrative section for committed Emergency Connectivity Fund program funding requests and removing laptop and tablet funding requests.

³⁰ See *supra* note 1 (highlighting that there are at least 16 million students nationwide that live in homes without a broadband connection and finding that teachers are more likely to assign homework that requires access to broadband and/or digital devices outside of schools as grade levels increase).

³¹ 47 CFR §§ 54.503(c)(2)(ii)(A), 54.504(a)(1)(v) (requiring applicants to certify that E-Rate-supported services will be used primarily for educational purposes).

³² On September 12, 2023, the Bureau issued a Public Notice seeking comment on the proposed eligible services list for funding year 2024. See *Wireline Competition Bureau Seeks Comment on Proposed Eligible Services List for the E-Rate Program*, WC Docket No. 13-184, Public Notice, DA 23-819 (WCB Sept. 12, 2023). We direct the Bureau to issue a supplemental Public Notice seeking comment on the specific services and equipment to fund.

³³ See *supra* Section II; *Schools and Libraries Sixth Report and Order*, 25 FCC Rcd at 18779, paras. 31-32.

³⁴ See *Schools and Libraries Sixth Report and Order*, 25 FCC Rcd at 18778-79, para. 31.

activities, particularly in rural parts of the country, we conclude that this clarification is consistent with the public interest and promotes the effective use of E-Rate-supported services during those times.

11. Indeed, as the COVID-19 pandemic has underscored, the need for broadband connectivity—particularly for those students that lack an adequate connection at home—is more critical than ever. As commenters in the Bureau’s remote learning and eligible services proceedings have stressed, having broadband connectivity is vital to learning in today’s increasing digital world.³⁵ Even before the pandemic, students without adequate broadband access at home have been shut out of being able to fully engage in their education, often having to resort to completing assignments from parking lots or other public spaces with free Wi-Fi or risk falling behind their peers.³⁶ And, while the Emergency Connectivity Fund program has provided relief to these students, committing approximately \$58.2 million for the purchase of Wi-Fi hotspots and broadband services for school buses to date, that support is limited in scope and duration—aimed at addressing, among other things, the remote learning needs of students during the COVID-19 emergency period and will sunset on June 30, 2024.³⁷

12. With this Declaratory Ruling, we take another step towards closing the existing Homework Gap. Consistent with our precedent, we therefore clarify that the use of Wi-Fi, or other similar access point technologies, on school buses, as well as any E-Rate-eligible equipment needed to enable these services, meets our definition of an educational purpose and the provision of such services is eligible for E-Rate funding. Accordingly, we direct the Bureau to make these services eligible for E-Rate funding as part of the upcoming eligible services list proceeding.³⁸ Adapting the eligible services list to

³⁵ See, e.g., Education and Library Networks Coalition (EdLiNC) Comments, WC Docket No. 21-31, at 7 (rec. Feb. 16, 2021) (arguing that Homework Gap technologies and services have become prerequisites for many students to receive any education at all); Los Angeles Unified School District Comments, WC Docket No. 21-31, at 1 (rec. Feb. 12, 2021) (asserting that public education has shifted so that providing equipment and reliable connectivity to all teachers and students is fundamental to sustaining on- and off-campus learning); Common Sense Comments, WC Docket No. 21-31, at 9 (rec. Feb. 16, 2021) (stating that access to high-speed internet and devices is “inextricably linked to educational achievement opportunities for every child, in every state, whether they are learning in school or from home”); WIDPI FY 2022 ESL Reply at 1 (“As was clear to many before the pandemic, and became clear to all during the pandemic, students need internet access at home to participate in school.”); Kajeet, Inc. Comments, WC Docket No. 13-184, at 1 (rec. Sept. 22, 2021) (noting that students, staff, and library patrons who lack broadband access “suffer the consequences of an inequitable and inferior learning environment”).

³⁶ See, e.g., Clare McLaughlin, *The Homework Gap: The ‘Cruellest Part of the Digital Divide’*, National Education Association (Apr. 20, 2016), <https://www.nea.org/advocating-for-change/new-from-nea/homework-gap-cruellest-part-digital-divide> (explaining how the homework gap forces students to seek out free Internet access in commercial parking lots or libraries in order complete assignments, while many others are “simply unable to finish the work”); Carter Evans, *Calif. School district puts Wi-Fi on wheels to close digital divide*, CBS News (Apr. 6, 2016), <https://www.cbsnews.com/news/california-coachella-valley-school-district-closes-digital-divide-with-wifi-on-school-buses/> (reporting that students without Internet access at home sit in cars with their parents on school campuses after school hours or go to Starbucks to complete homework); Jeff Amy, Larry Fenn & Michael Melia, *3 million US students don’t have home internet*, AP News (June 10, 2019), <https://apnews.com/article/smartphones-us-news-ap-top-news-hartford-ms-state-wire-7f263b8f7d3a43d6be014f860d5e4132> (describing how, in addition to offering Internet services on school buses and loaning out hotspots, many communities have compiled lists of Wi-Fi-enabled restaurants and businesses where children can go to complete schoolwork).

³⁷ See *supra* para. 7; see also *Emergency Connectivity Fund Report and Order*, 36 FCC Rcd at 8696, para. 16 (adopting as the first goal of the Emergency Connectivity Fund program helping to meet the need for connected devices and broadband Internet access services to facilitate remote learning during the COVID-19 pandemic for students, school staff, and library patrons).

³⁸ See *supra* note 2. To the extent the Bureau has said that Wi-Fi on school buses is not eligible for E-Rate funding, we reverse that finding here. See, e.g., *FY 2022 Eligible Services List Order* at 3-5, paras. 8-9 (refraining from making Wi-Fi on school buses eligible for funding in funding year 2022 given the support available for Wi-Fi hotspots and services on buses through the Emergency Connectivity Fund program and the need to leverage the Commission’s experience with the Emergency Connectivity Fund program to more fully explore how they might be

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reflect how schools now can use advanced information services to connect their students allows the program to keep up with an “evolving level” of technological services, “taking into account advances in telecommunications and information technologies and services,”³⁹ just as the Commission has done in the past.⁴⁰ In doing so, we seek to leverage the eligible services list process and the experience of E-Rate program participants (many of whom have applied and received funding commitments for Wi-Fi hotspots and broadband services for school buses through the Emergency Connectivity Fund program) to determine which specific services and equipment to fund for this purpose, as well as the costs associated with doing so.

13. In paving a path forward to fund these services, we are mindful of our obligation to be prudent stewards of the limited E-Rate funding. At the same time, our experience with the Emergency Connectivity Fund program thus far has shown that the cost of providing Wi-Fi for school buses is on average \$1,840 per school bus per year.⁴¹ Coupled with the fact that the demand for E-Rate program funding has consistently fallen under the program’s funding cap in recent years, we believe that any potential impact of our action on the E-Rate program budget and the Universal Service Fund would be nominal compared to the substantial benefit reaped by students.⁴² We direct the Bureau to seek comment on this assessment and whether the estimated costs of providing these services on school buses is accurate. In addition, consistent with our finding in the *2014 First E-Rate Order* that data plans and air cards for mobile devices are eligible *only* in instances when the school or library seeking support demonstrates that the individual data plans are the most cost-effective option for providing internal broadband access for mobile devices at the school or library, we direct the Bureau to seek comment on whether to similarly restrict funding for hotspots, data plans, and air cards for individual use on school

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eligible); *see also id.* at 5, para. 12 (stating that “[o]ff-campus use even if used for an educational purpose is ineligible for support and must be cost-allocated out of any funding request.”).

³⁹ 47 U.S.C. § 254(c)(1).

⁴⁰ *See, e.g., Schools and Libraries Sixth Report and Order*, 25 FCC Rcd at 18767-69, paras. 10-13 (adding dark fiber to the eligible services list).

⁴¹ *See* Universal Service Administrative Company, *Emergency Connectivity Fund FCC Form 471*, <https://opendata.usac.org/Emergency-Connectivity-Fund/Emergency-Connectivity-Fund-FCC-Form-471/i5j4-3rvr> (last visited Sept. 21, 2022) (reporting data on what equipment and services for school buses have been committed in the Emergency Connectivity Fund program to date). The average cost is derived by searching for “Wi-Fi” and “buses” in the narrative section for committed Emergency Connectivity Fund program committed funding requests. Based on this search, the average cost for equipment is \$1,009; installation, activation and initial configuration is \$375; and recurring services for 12 months is \$456. Some E-Rate stakeholders have also asserted that the cost of Wi-Fi on school buses is workable within the E-Rate budget. *See, e.g.,* KB & Associates FY 2017 Eligible Services List Comments, at 1-2 (calculating that the average costs associated with Wi-Fi on school buses are supportable within the E-Rate budget); *see also* Letter from Indra Sehdev Chalk, T-Mobile USA, Inc. to Marlene H. Dortch, Secretary, FCC, WC Docket No. 13-184, at 2 (filed May 31, 2023) (estimating that supporting Wi-Fi on school buses would increase the annual E-Rate program demand by no more than ten percent).

⁴² For funding year 2023, the funding cap is \$4.768 billion and demand is an estimated \$2.944 billion. *See Wireline Competition Bureau Announces E-Rate and RHC Programs’ Inflation-Based Caps for Funding Year 2023*, CC Docket No. 02-6, WC Docket No. 02-60, Public Notice, DA 23-178 (WCB Mar. 3, 2023); Letter from Craig Davis, Vice President, Schools and Libraries Division, USAC, to Trent Harkrader, Chief, Wireline Competition Bureau, FCC (Mar. 29, 2023), available at <https://www.fcc.gov/ecfs/document/10329233636144/1>; *Wireline Competition Bureau Directs USAC to Fully Fund Eligible Category One and Category Two E-Rate Requests*, CC Docket No. 02-6, Public Notice, DA 23-425 (WCB May 19, 2023); *see also* Taylor Ekbatani, *Are Students Using School Bus Wi-Fi* (June 2, 2022), <https://stnonline.com/special-reports/are-students-using-school-bus-wi-fi/> (highlighting how students have benefitted from Wi-Fi-enabled school buses that provide opportunities to “do their homework, review materials for tests, explore topics of interest, and work on their creativity and collaboration skills” during long commutes).

buses when considering which specific services and equipment to fund as part of the funding year 2024 eligible services list proceeding.⁴³

14. Finally, while we recognize that there may be other legitimate off-campus uses that meet our definition of an educational purpose, we emphasize the limited nature of this Declaratory Ruling and limit our clarification to the use of Wi-Fi, or other similar access point technologies, and the necessary equipment for use on school buses only.

IV. ORDERING CLAUSES

15. IT IS ORDERED that, pursuant to sections 1-4, and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, this Declaratory Ruling IS ADOPTED.

16. IT IS FURTHER ORDERED that this Declaratory Ruling SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

⁴³ *Modernizing the E-Rate Program for Schools and Libraries*, WC Docket No. 13-184, Report and Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd 8870, 8932-33, paras. 151-53 (2014).