Before the Federal Communications Commission

Washington DC 20554

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

Comments of the Education and Libraries Networks Coalition

I.   Introduction

The Education and Libraries Networks Coalition (EdLiNC), a group comprised of the leading public and private education associations and the American Library Association,[1] which was formed in 1995 to advocate for the interests of schools and libraries in the Telecommunications Act of 1996, is pleased to provide comments on this Commission rulemaking, which we hope will chart the path for the E-Rate's future. Since the enactment of the E-Rate as part of the Act, EdLiNC has pursued a mission of promoting and improving the E-Rate to fulfill its mission of accelerating the deployment of advanced telecommunications and information services in schools and libraries and has filed in every Commission rulemaking related to the program. As

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[1] The full list of EdLiNC members is attached as Exhibit A.

is reflected in our comments below, EdLiNC continues to focus on the promotion and advancement of the E-Rate.

In our initial comments on the Commission's most recent Notice of Proposed Rulemaking (Notice), [2] we address a number of major issues raised and make the following key points:

1. EdLiNC Believes that the E-Rate Program is Extremely Successful, its Structure and Priorities Retain their Validity, and its Operational Processes Function Relatively Smoothly;
2. EdLiNC Believes that the E-Rate's Funding is Inadequate to Meet Current and Future Demand and Urges an Increase to at least $5 Billion Annually;
3. EdLiNC Supports the Establishment of National Bandwidth Goals and Entity Appropriate Targets for the E-Rate Program;
4. EdLiNC Believes that Connectivity Metrics are the only Appropriate Measures for the E-Rate Program;
5. EdLiNC Does Not See the Need to Change the Educational Purposes Definition;
6. EdLiNC has Deep Misgivings about Instituting Per Pupil Formula Proposals;
7. EdLiNC Supports Streamlining the Application Process and Making the Program More Efficient;
8. EdLiNC Supports Efforts to Encourage but not Mandate Support Based on District-Wide Eligibility and Applications by School District; and
9. EdLiNC is Concerned of the Ramifications of Eliminating P1 and P2 Distinctions.

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[2] *Modernizing the E-Rate Program for Schools and Libraries*, WC Docket 13-84, Notice of Proposed Rulemaking (2013) (*Notice).*

II. **EdLiNC Believes that the E-Rate Program is Extremely Successful, its Structure and Priorities Retain their Validity, and its Operational Processes Function Relatively Smoothly**

a. E-Rate's Successes

Since its inception in 1998, the E-Rate has worked with great success to ensure that students, educators,—including librarians, and community members are connected to the Internet and have access to online communications services and informational resources no matter where they live or their socioeconomic status. Today, thanks to E-Rate's support and as the Notice itself makes clear, nearly every classroom and library has basic internet connectivity and stories abound as to its widespread positive effects on fostering online and digital education, developing critical learning and technical skills, improving access to governmental programs and services, assisting in employment services, and facilitating communications and collaborations between parents, students, teachers, and community members. By many measures, E-Rate is a monumental success story.

Before we look towards the future, it is important to understand how and why E-Rate has meant so much to schools and libraries across the country and the role it has played in opening the door to digital learning. One of the central reasons for the E-Rate's success is that the program is locally driven and allows applicants to choose services and technologies that make the best sense for their needs and budgets. Each applicant has been able to examine their needs, formulate a technology strategy, and leverage E-Rate funding to implement their digital learning vision. E-Rate has been transformative for many schools around the country—including high-poverty schools—by assisting them in creating updated, robust networks that can support a wide array of digital devices, tools, and learning models.

Patapsco High School and Center for the Arts, an urban, high-needs school in Baltimore, MD that served 1444 students in the 2011–12 school year, 91% of whom were eligible for free and reduced price lunches, is an excellent example. Back in 2009, the school's building was 50 years old and despite contending with cuts in funding and a reduction in staff members, former Principal Ryan Imbriale led an aggressive plan to outfit the building with a robust wireless infrastructure, equip classrooms with the latest technology, implement an open policy for mobile

devices, create a sustained plan for the use of social media for communication and learning, and provide high-quality professional development for the entire staff. While Patapsco does not apply directly for E-Rate funds, it benefits from its district's applications for E-Rate support. According to Mr. Imbriale:

> Baltimore County Public Schools uses E-Rate as a systemic approach to lower telecommunications costs across the entire system. The reduced cost for bandwidth makes a huge difference system-wide for us as we are making this instructional digital conversion. To have a full digital curriculum platform that all teachers, students, and administrators access with reliability constantly each day requires an extremely high level of bandwidth. Therefore E-Rate funding is essential.

Patapsco has leveraged their E-Rate supported connectivity to launch innovative programs such as a fully blended learning curriculum pilot in science as part of a collaborative effort between the school, the district, and a local community college. Imbriale also worked with Patapsco alumni to start a student app club. In the last four years, Patapsco has gone from barely registering to ahead of the curve in technology, earning notice from both US News & World Report and the Washington Post as one of the top high schools in the United States and from the College Board as one of the nation's top arts integration schools.

Many districts have engaged in significant planning to design a technology infrastructure that works for their geographically diverse communities. Calcasieu Parish Public Schools in Lake Charles, Louisiana, which has nearly 5,000 employees, over 33,000 students, 59 schools, 17 district offices, and encompasses 1,036 square miles, serves schools located in urban, suburban and deeply rural areas. With E-Rate's support, Calcasieu now has a wired network infrastructure that is supported by a fiber optic backbone. This backbone supports 35,000 network devices over a Wide Area Network (WAN) that delivers 100mbps of connectivity. The network provides significant resources to Calcasieu's schools including internet, network storage, wireless access, Voice-Over-IP (VOIP), the ability for online testing, video security systems/ access control entry systems, and email. Additionally, Calcasieu's network supports 3,000 wireless access points, which are becoming increasingly crucial as its schools are continuing to implement Bring Your

Own Device (BYOD) and 1:1 technology initiatives.   While this network seems quite extensive, on any given day Calcasieu's network reaches 90–95% of its capacity during peak periods.

The E-Rate has also been a source of support for schools and libraries in times of grave emergency and distress. Calcasieu Parish Public Schools, for instance, was ravaged by Hurricane Rita in 2005. As Calcasieu's Chief Technology Officer, Dr. Sheryl Abshire described, "E-Rate supported infrastructure played a significant role in helping the district react quickly to the disaster, allowing the district's still operational internal networks and email system to make payroll for its more than 4,000 employees just days after the hurricane and facilitating communication and online learning amongst students, parents, and educators that Rita had scattered." After the hurricane, E-Rate helped Calcasieu rebuild its network with over $14 million in support since 2006. According to Dr. Abshire, "without E-Rate, we might never have recovered from Rita and could not have expanded our network to serve the district's learning and technology needs."

E-Rate has also opened up digital learning opportunities for special needs students. Keystone Learning Services (an Education Service Agency or ESA) in Ozawkie, Kansas provides crucial special education services for young children (pre-K) in several school districts in Northeast Kansas as well as special education services generally for those seven districts.   Technology is incorporated into these programs to enhance students' communication skills. In the 2012 funding year, Keystone Learning Services received $28,742 in Priority 1 Services at the 72% discount level. According to Tim Marshall, Keystone's Executive Director, E-Rate funding has supported both digital learning and overall communication among and between teachers, students, and parents. He indicated that: "[E-Rate] keeps our educators connected, reducing paperwork, mileage, and time at meetings."

E-Rate has been a game changer for many rural areas of the country that previously did not have the level of internet connectivity needed to take advantage of the wide array of digital learning opportunities that are available. One such example is the Columbia Gorge Education Service District, which provides technology services to four school districts in Hood River and Wasco County, Oregon. Between 2011 and 2012, two of those districts—Dufur School District—which has around 280 students— received approximately $20,000 in Priority 1 E-Rate support at the 60–70% discount level, and South Wasco County School District—which has around 300

students— received approximately $27,000 in Priority 1 E-Rate funds at the 80–85% discount level. According to Superintendent Gary Peterson, that money has meant a great deal: "Prior to 2011, these schools had a maximum bandwidth of five megabits per second. Thanks to E-Rate, we have been able to upgrade these connections to nearly 100 megabits per second. Such improved bandwidth provides not only faster internet access but also allows our local districts to provide upgraded equipment such as laptops, tablets and other mobile devices for student use. Without the enhanced bandwidth, the use of such devices and the instructional activities for which they are used, would not be possible." Additionally, the South Wasco County School District leveraged its E-Rate supported upgraded network capacity to launch other technology projects including a 1:1 iPad implementation for 3rd through 8th graders, interactive whiteboards in every classroom, and response pads that allow teachers to receive instant student feedback on the material taught in the classroom.

E-Rate also plays an indispensible role for libraries around the country, particularly in rural areas where library internet connections may be the only or primary link to educational opportunities, medical assistance, government services, and job applications. The Sunflower County Library System in Mississippi, which serves a small rural jurisdiction with a population of fewer than 30,000 people and a median household income of $27,042, provides many of the county's residents with their only source for internet access. With its annual participation in the E-Rate program, which reached more than $75,000 this year, the library system has received has greatly improved library services to this economically challenged area with terrific results. One particularly poignant example can be found in the academic accomplishments of a child with significant learning disabilities as the result of a traumatic brain injury. Despite the fact that his parents were told that he would probably never graduate from high school and be productive, his family researched his condition at their local library and determined that he needed streaming visuals in all areas of his academics to keep pace with his peers. The family, which could not afford the internet access at home that was required to deliver these online resources, took advantage of the library's E-Rate supported Internet connection to access these learning resources, which helped their child not only graduate from high school, but continue his education at the college level and become a productive member of society.

b. E-Rate's Structure and Priorities Retain their Validity

EdLiNC submits that these examples show that E-Rate's current priorities and structure have not only ensured that E-rate support is delivered to where it is needed most, but continues to wear well some fifteen years after the Commission first voted to approve them. We believe that the program's core priorities and structure must remain intact not only because they have proven their validity over the course of the program's first fifteen years, but because they reflect the aims of the program's founders and ensure critical principles such as local decision-making and technological neutrality.

On the first point, EdLiNC believes that it is crystal clear that the program continues to meet Congress' and the Commission's goals that low-income and high cost rural areas receive special attention and funding priority in order to ensure equity in connectivity and Internet access. During floor debate on the Telecommunications Act of 1996, which authorized the E-Rate, program authors Senator Olympia Snowe (R-ME) and Senator John D. Rockefeller (D-WV) argued for the establishment of the E-Rate to help connect low-income and rural students to the Internet. Sen. Rockefeller stated: "Think of what this means for children of small schools in remote towns in West Virginia or South Dakota or Alaska or South Carolina or Maine. Through their computers, students can take a language class that is being given in Texas, visit a museum's collection on Fifth Avenue in New York, communicate with a computer pen pal in Asia or Russia or South America, and explore the jungles and the rivers and the plains of distant places to learn about science and biology and nature. Extraordinary opportunities, if it will be provided for them."[3] Today, fifteen years of the E-Rate has made Senator Rockefeller's vision a reality and brought robust online educational opportunities to rural America:

- At the combined public/school library in tiny Faith, South Dakota, E-Rate supported connectivity provides the only free internet access for 70 miles. According to Library Supervisor Angela Ostrander, its six children's computers and two adult computers are always busy, with multiple students crowded around each computer during classes. Ostrander herself has benefitted explaining that: "with the nearest college over 125 miles away, many people depend on the library's technology for distance learning, including

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[3] 141 Cong. Rec. S 7981 (June 8, 1995).

myself. As a single, working mother, online learning was my only opportunity for advancement. I finished my library endorsement online through Black Hills State University without drastic life changes such as quitting my job and moving from our home."

- The rural Triton School Corporation in Bourbon, Indiana, which serves1,000 K–12 students, over half of who are eligible for a free or reduced price lunch, has leveraged its E-Rate support by equipping all classrooms with SmartBoards, overhead projectors, document cameras, and laptop computers. All students receive instruction in utilizing this 21st Century technology for learning. The laptop computers are 1-to-1 in grades 5–12 and 1-to-2 or 1-to-3 in all other grades. According to its Superintendent: "Without E-Rate funding, we would not be able to have wireless access in all of our buildings for all of our students. Being in a rural area, the Internet is very important to us being able to open up the world to our students. In some areas of our district, families cannot access the Internet because it's not available where their homes are located. If they didn't have computer experiences at school, they would never have them. Our state wants all required testing to be done online. We don't have the financial resources to make that happen without the help we receive from E-Rate funding. We're trying to help our students develop K-12 individualized career e-portfolios. We need the technology to make this happen."

- E-Rate supported connectivity has allowed rural Valentine Library in Nebraska to serve as a proctoring center for students who are taking college-level classes online, dramatically expanding the educational opportunities available to the community.

On the second point, EdLiNC believes that the program's related principles of locally-driven decision-making and technological neutrality must be maintained. We believe that allowing local schools, school districts and libraries to make their own service purchase decisions makes sense as local entities know their needs and budgets best and often are in the best position to uncover bargains and efficiencies. We believe further that the principle of technological

neutrality, which the statute itself requires,[4] remains vital as it not only frees applicants to make their own decisions on the technology that best suits their needs but allows innovative technology companies the opportunity to develop new, E-rate eligible products and services that meet school and library needs.

If there is any doubt regarding the abilities of schools or libraries to undertake a sophisticated, forward-thinking technology implementation, thereby demonstrating in practice the validity of the principles of local decision-making and technological neutrality, one need look no further than Etowah County Schools in Gadsden, Alabama. Serving nearly 10,000 students and supporting over 5,000 desktop and laptop computers and tablets, Etowah's Technology Department maintains and manages a fiber optic backbone and is currently implementing a system-wide wireless network for student use. This infrastructure is the first step in implementing a Bring Your Own Device (BYOD) or a 1:1 initiative. Students in the Etowah County Schools will be the first in the area to bring their personal devices to school and access the internet via a CIPA safety compliant wireless network. Additionally, Etowah County Schools currently utilize iPads, tablets, Netbooks, laptop computers, nook color e-readers, and other various technology devices in its classrooms. Etowah has received well over $1 million in E-Rate support in the past three years, including $380,644 in Priority 1 E-Rate support in 2012. According to its Technology Coordinator, Hal Murphy: "The high speed connectivity E-Rate provided is crucial to the successful experience of our students, both in BYOD and in today's digitized learning environment. Today's end-of-course testing, ACT and other online assessments require a quality high-speed connection and total saturation in ALL our buildings, something we couldn't accomplish without E-Rate."

c. **E-Rate's Operational Processes Function Relatively Smoothly**

Like its structure and priorities, E-Rate's administration has by and large worked well although there is certainly always room for continued administrative improvement. The Universal Service Administrative Company (USAC), the program's administrator, now processes more than 46,000 applications annually and resolved over 3,000 funding decision appeals in Program Years 2011 and 2012 alone. The E-Rate has transitioned from a paper applications system to an almost

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[4] 47 U.S.C. § 254(h)(2)(A); *Federal-State Joint Board on Universal Service*, CC Docket 96-45, Report and Order, 12 FCC Rcd 8776, 8801, paras. 46–48 (1997) (*Universal Service First Report and Order*).

entirely online system, with over 98% of this year's applications received online. While there is no question that the program encountered significant cases of waste, fraud and abuse in its earliest years, the Commission and USAC have implemented a strong integrity assurance program to combat efforts to misuse the program's resources, including audits, site visits, a whistleblower hotline and a suspension and debarment program that has removed numerous malefactors from involvement with the program. USAC and the Commission instituted many of the program's numerous rules, forms and document retention requirements, about which applicants complain, not for bureaucracy's sake but to safeguard E-Rate's increasingly scarce resources.

III.   EdLiNC Believes that the E-Rate's Funding is Inadequate to Meet Current and Future Demand and Urges an Increase to at least $5 Billion Annually

Paragraphs 172–176 of the Notice raise the issue of E-Rate funding and ask whether the Commission should look to reprioritize current funds, authorize a temporary increase to the E-Rate cap, or authorize a permanent cap raise.[5]

EdLiNC submits that though the E-Rate has been incredibly successful, its job is far from finished. The basic connectivity that E-Rate helped establish within America's schools and libraries is no longer enough to support the exploding demand for more bandwidth and higher connectivity speeds that is being driven by the development and rapid expansion of new online tools and services, digital libraries, the rise of online assessments and digital textbooks, and the proliferation of mobile wireless devices. For EdLiNC, it is apparent that the current program cap is wholly insufficient to meet current applicant demand, which has been more than double available funding in the past two years, let alone anticipated future need. Indeed, it has become even more obvious, based on polls and projections, that actual demand is repressed because most applicants no longer bother to apply for the dwindling Priority 2 support now available. Therefore, we argue that the E-Rate's annual spending cap, set back in 1998 before mobile wireless computing devices even existed, merits a significant increase. At a minimum, we believe that increase should at least meet current application demand levels, which have hovered at or about $5 billion over the past two years. We also believe that any increase in the current

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[5] *Notice* at paras. 172–176.

cap should be made permanent, providing applicants certainty that appropriate levels of funding will be available to them for the program's next fifteen years. Without an increase in the program's annual cap, EdLiNC believes that the program's ability to support existing and new services will be severely curtailed in the next few years, including drastic cuts to heretofore sacrosanct and essential basic services in Priority 1. If this comes to pass, the program will be unable to provide schools and libraries with the advanced telecommunications and information services they need to provide students and patrons with the skills necessary to compete in the 21st century.

a. E-Rate's Mission is Neither Antiquated Nor Complete

Despite all that the E-Rate program has accomplished, its mission is neither antiquated nor complete. Student embrace of digital learning, which must be fueled by greater access to bandwidth, is beginning to reach a tipping point. Project Tomorrow's Speak Up 2012 online nationwide survey of more than 364,000 students shows that America's students now expect to utilize technology in all aspects of their educational experience: 69% of middle school students want to use devices to take notes in class, 64% wish to access online textbooks, 73% want the ability to look up information on the Internet whenever they have the need, and 69% would like to record lectures or labs so that they can review the information at a later time.[6] The Project Tomorrow surveys also demonstrate that students see increasing value in online learning because it allows them to personalize and take ownership over their education and obtain assistance and remediation when they need it. In 2012, 57% of surveyed high school students said that one benefit of digital learning is to be to be in control of their learning, 42% responded that online learning provides a greater sense of independence, and 46% indicated that online learning would make it easier for them to review course materials when they required remediation.[7]

The increasing interest by students and educators in digital learning is driving efforts to greatly expand technology access in schools and libraries, leading to a concomitant need for more bandwidth. School districts continue to pick up the pace in implementing 1:1 (1 student: 1

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[6] Project Tomorrow Speak Up, From Chalkboards to Tablets: The Emergence of the K-12 Digital Learner, at 10 (rel. June 2013), *available at* http://www.tomorrow.org/speakup/pdfs/SU12-Students.pdf (last visited Sept. 12, 2013) (Speak Up 2012 National Findings K-12 Students).
[7] *Id*. at 12.

computer) initiatives and establishing Bring Your Own Device (BYOD) programs that allow students to use their own devices at school. According to Project Tomorrow, districts are increasingly looking to adopt Bring-Your-Own-Device (BYOD) programs as the number of surveyed districts with BYOD pilots increased 47% between 2011 and 2012.[8] School districts and textbook publishers are also beginning the transition from print to digital. According to a study of this topic made by the State Educational Technology Directors Association, "One current estimate puts digital textbooks at about three percent of the education textbook market in 2011. Use of digital content is expected to grow at a year-over-year rate of more than 100 percent, but even then, according to Next is Now, the blog for a textbook distribution company, schools will have just 19.5 percent adoption by 2014 and 50 percent by 2018."[9] Finally, many states are now using bandwidth intensive online assessments, some of which are adaptive. All of these initiatives represent significant investments of time and money made by schools and libraries around the country that come in addition to the school's or library's non-discounted share of the cost of services. These sizable investments rely on the services supported by the E-Rate program.

For all of these initiatives, though, broadband Internet connectivity is a prerequisite and for many schools, school districts and libraries that is proving to be a challenge. According to a forthcoming survey by the Consortium for School Networking (CoSN) of more than 400 school districts, about 92.5% of districts feel that the E-Rate at its current funding and discount levels does not satisfy their current needs and 99% of districts report that they will need to increase their bandwidth in the next three years.[10] The CoSN survey also finds that a strong majority of

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[8] Project Tomorrow Speak Up, From Chalkboards to Tablets: The Digital Conversion of the K-12 Classroom, at 3 (rel. Apr. 2013), *available at* http://www.tomorrow.org/speakup/pdfs/SU12EducatorsandParents.pdf (last visited Sept. 12, 2013) (Speak Up 2012 National Findings Educators and Parents).

[9] Fletcher, G., Schaffhauser, D, & Levin, D. (2012). Out of Print: Reimagining the K-12 Textbook in a Digital Age. Washington, DC: State Educational Technology Directors Association (SETDA), at 15, *available at* http://www.setda.org/c/document_library/get_file?folderId=321&name=DLFE-1598.pdf (last visited Sept. 12, 2013).

[10] Consortium for School Networking (CoSN) and Market Data Research (MDR), CoSN's E-Rate and Broadband Survey 2013, at 2 (rel. Sept. 16, 2013), *available at* http://www.cosn.org/sites/default/files/e_rate_survey_eg.pdf (last visited Sept. 16, 2013) (CoSN E-Rate Survey).

respondents are doubtful that a typical school's wireless network has the capacity to handle a 1:1 deployment this fall. Project Tomorrow's 2012 survey of district technology leaders points up similar concerns, with 34% identifying Internet capacity and bandwidth as their most serious challenge and 71% saying that they cannot be certain that future connectivity needs will be met.[11] These same administrators went on to note that if they had increased bandwidth, 52% would better utilize online curriculum and 54% would support multi-media integration into the classroom experience, among other activities.[12]

Public libraries are experiencing similar impacts related to community demand for digital and distance learning, as well as services related to workforce development and retraining, digital literacy, and engagement with essential online government resources. Libraries connect US— students *and* lifelong learners—to public access computers and online education and information resources. In fact, libraries report they are the only such providers of free access in 62% of U.S. communities.[13] The number of computers in libraries has doubled over the past decade.[14] In 2012 both library computer and wireless use increased more than 60% over the previous year.[15] It's not just demand that is up, but services are evolving. The Cuyahoga County Public Library in Ohio, for instance, is supporting learning at all ages: from its iPad labs designed to support preschool literacy, to digital animation and coding clubs that support STEM learning for school-age youth, to partnerships with Case Western Reserve and Cleveland State universities that provide continuing and remedial education to prepare students for college and workforce. The library's gigabit network allows all of these activities to happen simultaneously to patron Wi-fi

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[11] Speak Up 2012 National Findings Educators and Parents at 14.

[12] *Id*.

[13] Bertot, J.C., McDermott, A., Lincoln, R., Real, B., & Peterson, K. (2012). 2011-2012 Public Library Funding & Technology Access Survey: Survey Findings & Report. College Park, MD: Information Policy & Access Center, University of Maryland College Park, at 4, *available* at http://www.plinternetsurvey.org (last visited Sept. 16, 2013) (Technology Access Survey).

[14] Swan, D. W., Grimes, J., Owens, T., Vese, Jr., R. D., Miller, K., Arroyo, J., Craig, T., Dorinski, S., Freeman, M., Isaac, N., O'Shea, P., Schilling, P. Scotto, J. (2013). Public Libraries Survey: Fiscal Year 2010 (IMLS-2013–PLS-01). Institute of Museum and Library Services. Washington, DC, at 30, *available at* http://www.imls.gov/assets/1/AssetManager/PLS2010.pdf (last visited Sept. 16, 2013).

[15] Technology Access Survey at 6, 19.

use and other technology classes. This library also is illustrative of another fast-growing trend in libraries—enabling people to create as well as consume content, including recording and sharing video and audio portfolios. "Our gigabit connection ensures that there are no limitations on the opportunities that we can offer the citizens of Cuyahoga County," said library director Sari Feldman. Our nation is facing a sea change in what may be enabled through high-capacity broadband, and libraries are perfectly positioned to light the way forward and ensure no one is stranded on the information superhighway.

b. E-Rate's Funding is Inadequate to Meet Current and Future Demand

Paragraph 9 of the Notice itself starkly makes the case that E-Rate cannot support what schools and libraries need to do right now, let alone in the coming years. As the Notice states: "Schools and libraries sought E-rate funding in excess of $4.9 billion, more than twice the annual cap of $2.25 billion. The E-Rate funding cap was set by the Commission when it created the E-Rate program in 1997 and demand for funds has exceeded the cap every year since the inception of the program."[16] Beyond these simple facts, there are still more:

- Priority 1 demand has grown consistently so that this year, for the first time ever, Priority 1 demand will eclipse the annual cap itself, leaving no money left for Priority 2.
- Many applicants have decided not to bother applying for Priority 2 support because they have almost no chance of receiving funding. According to CoSN's forthcoming survey, more than a quarter of districts indicated that they did not apply for E-Rate support for that very reason. With no Priority 2 support an increasingly likely prospect this year and many schools and libraries already opting not to apply for Priority 2 over the past several years, EdLiNC asserts that actual demand for the program is substantially higher – and growing – than is evident from applications filed. An EdLiNC analysis of program demand estimates actual demand for 2013 at greater than $8.6 billion.[17]
- According to EdLiNC's analysis of E-Rate demand, the need for E-Rate support will only climb over the next several years.

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[16] *Notice* at para. 9.
[17] A copy of EdLiNC's analysis is attached as Exhibits B and C.

EdLiNC's case for more funding for the E-Rate boils down to this:

- Without an increase in the program's annual cap, the gap between what the program can provide and what schools and libraries need will only widen.
- Without an increase in funding, the low income and rural and remote schools and libraries that are most in need and which the E-Rate's founders and this Commission made priorities, will be confined to support for increasingly limited Priority 1 services and will most assuredly lose ground to their better heeled counterparts.
- Without an increase in funding, efforts to advance digital learning – be they 1:1 initiatives, BYOD programs, digital textbooks or online assessments – will be undermined, if not torpedoed.

c. E-Rate's funding level must increase to $5 billion to meet demand

Even though our projections suggest that demand will continue to grow beyond current application demand of $5 billion and that actual demand is already in excess of $8 billion, we believe that it is prudent to only seek an increase of the program's annual spending cap based on verifiable demand. Since application demand has been at or above $5 billion for the past two years and is likely to continue at or above those levels for the next few years, we urge the Commission to establish $5 billion as the new and permanent annual spending cap.

While some may argue that E-Rate does not need any additional funding or that a temporary increase would be sufficient, EdLiNC maintains that E-Rate needs a permanent and sustained increase, not a short term, one time surge. As shown in the above section, E-Rate lacks adequate funding to ensure that all schools and libraries can transition their basic Internet connections to high speed connections and that schools and libraries desire and need greater bandwidth to make use of the educational tools, content and services available online. With the advent of online assessments and digital textbooks, demand is expected to continue to increase. Many of these services are now used on mobile wireless devices, like tablets, laptops and smart phones, none of which existed when the current E-Rate spending cap was inaugurated in 1998.

Additionally, the Commission itself recognized in 1997, and the instant Notice acknowledges today, the $2.25 billion annual cap represented "a best efforts attempt to estimate what the demand would be for telecommunications and Internet access services by schools and

libraries."[18] The Commission explained then that there was no existing data to aid it in estimating the cost of E-Rate eligible support and cited the Joint-Board which estimated—based on the McKinsey Report and other analyses—that demand would be approximately $3.1 to 3.4 billion annually during an initial four year deployment period, and approximately $2.4 to 2.7 billion annually in later years.[19] We now have 16 years of demand data that shows significantly higher need than what was projected at the time of the program's inception.

Finally, EdLiNC believes that the current spending cap fails to meet the program's statutory goal of "enhanc(ing), to the extent technically feasible and economically reasonable, access to advanced telecommunications and information services for all . . . elementary and secondary school classrooms."[20] The current funding cap, which does not meet current, demonstrated need and threatens to stunt the growth of digital learning in the future, is already denying access to the Act's promised services to some, with many more schools and libraries likely to share the same fate.

For all of these reasons, EdLiNC strongly urges the Commission to permanently increase the E-Rate cap to $5 billion to at least meet current registered demand. By permanently increasing the cap to $5 billion, the Commission would provide schools and libraries with sufficient funds to meet the growing needs of Priority1 services *and* allow the program to also fund Priority 2 services to institutions at lower discount levels. Given the surging use of digital learning tools, resources, devices, and assessments to personalize learning and prepare students for college and career and the projected registered and actual demand figures cited above, a temporary increase in funding will not be sufficient for students and library patrons.

IV.   **EdLiNC Supports the Establishment of National Bandwidth Goals and Entity Appropriate Targets for the E-Rate Program**

Paragraphs 13–40 of the Notice raise the issue of establishing new goals and measurements for the program, including the possibility of "benchmarking the performance of schools' and libraries' broadband connections against specific speed targets."[21] Paragraphs 22–24 specifically

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[18] *Notice* at para. 174.

[19] *Universal Service First Report and Order*, 12 FCC Rcd at 9055, paras. 529–531.

[20] 47 U.S.C. § 254(h)(2)(A).

[21] *Notice* at paras. 13–40.

seek comment on goals advanced both by President Obama and Commissioner Rosenworcel and echoing targets established by the State Educational Technology Directors Association, which would initially aim to have schools reach the bandwidth target of 100 Mbps per 1000 students and ultimately 1 Gbps per thousand students.[22] EdLiNC wholeheartedly agrees that the E-Rate program needs new, bandwidth focused goals and commends the President and Commissioner Rosenworcel for advancing well-considered national goals and measurements on that front. EdLiNC also believes that any new bandwidth goals for this program must include entity specific bandwidth goals that recognize and account for the different needs, geographies and costs faced by each school and library applicant. We further believe that any new goals must also be based on data that establishes current levels of bandwidth capacity for each applicant and charts expected future needs. Finally, we believe that any new goals must be geared towards supporting school and library applicants in attaining bandwidth levels appropriate to their needs and should in no way be construed as mandates with negative repercussions for those entities that fail to meet numerical targets or deadlines.

EdLiNC agrees that the previous measures of the program's success, focused largely on the establishment of a basic connection to the Internet for each and every public and private school classroom and library building, have been met. Evidence from a variety of surveys and sources, many of which the Commission cites in the Notice, make that case convincingly (Paragraph 2) and there is no need to reiterate that well-known data.

EdLiNC agrees further that the Commission should focus any new goals and measurements on bandwidth levels to ensure that schools and libraries enjoy more than basic connections to the Internet, namely sufficient levels of connectivity to allow students, educators and community members access to the full range of digital materials, services and tools available online. As far back as 2005, EdLiNC called for "the Commission to consider (E-rate) performance measures

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[22] *Id*. at paras. 22–24. Some commentators have suggested that this goal is not audacious enough, and that schools should be seeking to have a minimum 1 Gbps of connectivity per 2,000 students by 2014 and 4 Gbps by 2018, and double those levels in area where fiber is available. *See* Cisco, High-Speed Broadband in Every Classroom: The Promise of a Modernized E-Rate Program, at 6 (rel. Sept. 2013), *available at* www.**cisco**.com/web/st**rate**gy/docs/education/**e_rate**_connected_wp.pdf (last visited Sept. 12, 2013).

based on universal broadband penetration and connectivity speed at participating schools and libraries."[23] With the more recent advent of online assessments and digital textbooks and the growth in ownership and use of mobile wireless devices, including through school Bring Your Own Device programs, schools and libraries face increasing demands for more bandwidth to allow educational, communications and collaboration activities to occur without significant slowdowns or disruptions. The time seems ripe to establish new targets for the E-Rate designed to ensure that all schools and libraries have not just basic Internet connections, but broadband connections that permit the fullest use of online resources.

EdLiNC applauds President Obama and Commissioner Rosenworcel for grasping the "need for speed" and making bandwidth capacity the centerpieces of their ConnectED and E-Rate 2.0 proposals, respectively. We believe that these goals represent excellent national benchmarks that the vast majority of schools and libraries can and should embrace as aspirational goals for themselves.

In addition to adopting national benchmarks, we encourage the Commission to establish scalable bandwidth targets that reflect the individual circumstances of every school and district. In our view, these entity specific goals, which could be developed as a matrix, should be determined based on: 1) where the entities are geographically situated (rural, urban or suburban); 2) the size of the population they serve (for schools – numbers of students and educators; for libraries – average number of patrons each day, for example); and 3) the cost, affordability and availability of services in their areas. We make this suggestion because we know that a number of schools and libraries have encountered and will encounter challenges to meeting national benchmarks based on where they are located and the accompanying challenges to upgrade bandwidth because of cost and availability. We also make this suggestion because some small schools or libraries, often located in remote and rural areas, may never need to reach a national bandwidth benchmark as their student enrollment or patrons served numbers are low and possibly even declining, meaning less need for bandwidth. Our suggestion on scalable goals based on geography, size and cost are buttressed by a recent national survey by the Consortium for School Networking, in

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[23] *See* Comments of EdLiNC on the Comprehensive Review of Universal Service Fund Management, Administration, and Oversight at 6 (filed Oct. 18, 2005), *available at http://apps.fcc.gov/ecfs/document/view?id=6518170540*.

which 71% of respondents identified monthly recurring expenses as one of the most significant barriers to increasing connectivity. It is also worth noting that 20% of respondents identified geography as a barrier to increasing connectivity in their schools and 11% indicated that their Internet providers were either at capacity or could not expand capacity. In addition to the issues of availability and affordability, the actual needs for bandwidth vary widely, as different school and library entities launch different curricula, initiatives, and programs. In sum, we believe it important that any new bandwidth goals recognize the variety of situations faced by schools and districts, particularly those in rural and remote areas, and be established and adjusted accordingly.

EdLiNC also wishes to express our view that any new program goals and measurements should not be mandates that require schools and libraries to reach particular bandwidth figures by dates certain. As noted above, some schools and libraries may never need to or simply cannot reach broad national benchmarks and we do not believe that the federal government's role should be to require that they do so. We also do not believe that E-Rate support should be contingent on achieving or failing to achieve national goals. Instead, we see any new goals and measurements as recommendations intended to help guide schools and libraries as they develop strategies and plans for technology implementations. Finally, EdLiNC believes that the Commission should use data gathered from applicants to inform scalable entity specific goals. The type of data necessary to establishing these measures includes current applicant bandwidth levels at various Internet access points, including buildings, classrooms and devices, as well as applicant expectations of how much bandwidth they will need five years from now. Only with valid baseline measurements will schools and libraries be able to determine where they stand now and to project where they need to go in the future.

V.   EdLiNC Believes that Connectivity Metrics are the only Appropriate Measures for the E-Rate Program

Paragraph 40 of the Notice seeks public input on "whether the Commission should adopt educational outcome Measurements" for the E-Rate program.[24] For the same reasons EdLiNC

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[24] *Notice* at para. 40.

and the Commission cited six years ago, EdLiNC believes that connectivity metrics, ultimately upgraded to bandwidth metrics, are the only appropriate metrics for the E-Rate program.

EdLiNC believes that the Commission's 2007 decision, not to apply educational success metrics, and its underlying rationale for that decision, remains valid today and should not be in any way changed. In its Report and Order of that year, the Commission stated:

> "We agree with commenters that the Commission should further measure the level of connectivity. Commenters suggest, and we agree, that the Commission is not in a position to evaluate the impact of E-rate funds on connectivity as compared to other funding sources. We also agree with the commenters that it would be difficult to try to determine the impact of E-rate funds, as opposed to other funds, on learning. As the commenters observe, there are too many variables involved in educational achievement; Internet access is but one of many educational resources for students and teachers."[25]

Indeed, EdLiNC believes that, in the six years since the Commission issued its 2007 decision, the number of variables potentially affecting student achievement have only increased, making it even more difficult to attribute educational success to a single variable such as connectivity or bandwidth. For instance, new educational technology, services, devices and content have proliferated in K–12 schools over the past five years, with some schools making heavy use of these educational resources and others unable to afford them. Such new educational resources include but are not limited to: online assessments, digital textbooks, handheld computing devices/smart phones, interactive whiteboards, mobile wireless tablets, massive open online courses (MOOCs), and educational social networking sites. Moreover, many K–12 schools have found or could soon find significant impacts on one of their central measures of educational attainment—state assessment scores—as a result of their state's transition to new, more rigorous educational standards in reading/language arts and mathematics as well as online assessments linked to these new standards. The states of Maryland and New York have already seen precipitous drops in test scores following the institution of new state exams in the last school

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[25] *Comprehensive Review of Universal Service Fund Management, Administration, and Oversight*, WC Docket 05-195, Report and Order, 22 FCC Rcd 16372,16390, para. 39 (2007).

year.[26] Finally, in the past six years, state educational budgets have sustained serious hits as a result of an economic recession, leading to educator lay-offs, less funding for a variety of educational resources and, in some cases, school closures. While some schools have fared well academically or at least maintained their achievement levels during this recession, others have likely seen effects that reach beyond larger class sizes and fewer resources and encompass overall achievement and graduation rates.

Beyond the fact that we continue to believe that it is even harder now than six years ago to isolate connectivity or bandwidth to measure their impact on educational achievement, EdLiNC continues to believe that E-Rate is not an educational program, but a telecommunications and connectivity program and that it should be measured as such. While the E-Rate plays an important role in schools and libraries, the history is clear that it was intended to be and remains a telecommunications program: it was established through the work of Congressional committees with jurisdiction over telecommunications law and policy (not educational committees); it was authorized within sweeping telecommunications legislation (not as part of an educational bill); it is administered by the Commission and its designees (not the US Department of Education); it is a part of the universal service program, which is designed to support telecommunications connectivity to consumers and certain institutions (not a part of federal education programs); and its funds are collected through fees on consumer telephone bills (not through general federal taxes, which are the source of educational funds). Given this history, it is EdLiNC's view that the connectivity measures that the Commission applied to gauge success in the program's initial epoch and the bandwidth measures that we propose for the next one are the most appropriate measures of the program's success.

VI.   EdLiNC does not see the Need to Change the Educational Purposes Definition

Paragraphs 99–100 seek comment on proposals to further compartmentalize the definition of the term "educational purposes" in regards to the link between E-Rate eligible services and

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[26] Lynh Bui and Ovetta Wiggins, *State test scores drop as Maryland schools prepare for Common Core*, WASHINGTON POST (July 23, 2013), http://articles.washingtonpost.com/2013-07-23/local/40863179_1_state-test-maryland-schools-passing-rate; Andrew Ujifusa, *Tests Aligned to Common Core in New York State Trigger Score Drops*, EDWEEK (Aug. 7, 2013), http://blogs.edweek.org/edweek/state_edwatch/2013/08/_one_interesting_aspect_of.html.

student/patron usage.[27] Specifically, the Commission seeks comment on whether services that are used only by staff, administrators, or board members or services that support non-instruction buildings, should be eligible for E-Rate support or cordoned off in some way from the services that are used for "the core purpose of educating students and serving library patrons." Currently, the Commission defines eligible services that fall within the existing definition of "educational purpose" as services that are "integral, immediate and proximate to the education of students or, in the case of libraries, integral, immediate and proximate to the provision of library services to library patrons." This definition should remain unchanged. In a similar vein, attempting to limit E-Rate supported services to instructional buildings or school facilities is near-sighted. With the growing number of wireless devices used by students, educators and patrons on their campuses to access the Internet and other learning resources and opportunities, learning is no longer limited to a traditional, physical classroom. To attempt to determine – for purposes of E-Rate discount eligibility or ineligibility – further "qualifying" functions or roles of an educator or librarian or from where E-Rate supported resources should be accessed is impractical and burdensome. Moreover, it would only complicate the E-Rate application itself because the need to allocate out related costs in both the procurement evaluation and purchasing/funding request processes.

VII.   EdLiNC has Deep Misgivings about Instituting Per Pupil Formula Proposals

Paragraphs 149–162 seek comment on proposals advanced to establish annual "fixed budgets" for eligible applicants that would eliminate the current priority system and permit applicants to "spend on any eligible services of their choosing."[28] The Notice proceeds to discuss the concept of establishing a per pupil formula to disseminate funds, that might allow for high cost rural and low income rural schools and libraries to receive additional funding for each student.[29] The Notice suggests that the benefits of turning the current applications-based program into a formula program include more flexibility for applicants and greater certainty regarding funding levels.[30]

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[27] *Notice* at paras. 99–100.
[28] *Id*. at 149.
[29] *Id*. at para. 150.
[30] *See id*. at paras. 149–162.

EdLiNC has serious reservations about proposals to dramatically transform the structure of the current program, which we believe operates relatively well, into a formula-driven, per pupil allocation program. Topping our concerns is that any formula-driven system is unlikely to account adequately for the needs of low income schools and libraries, pursuant to the establishing statute and the Commission's interpretations of the statute. Additionally, while a per pupil formula might more evenly distribute the funds, it would not necessarily advance the goal of increasing bandwidth in schools. The simple fact of the matter is that bandwidth is not sold on a per pupil basis and limiting E-rate support by a formula linked to per pupil allocations could very well lead to small rural and large urban schools and libraries receiving support that is inadequate to purchase higher bandwidth levels. While funding fairness may be achieved through a per pupil system, higher bandwidth levels may be compromised. We also disagree that a formula driven system would provide more flexibility for applicants. Although on the surface it would allow them to but whatever they want, in reality they would only have enough money to buy what they will be able to afford with the subsidy, which may fall far short of what they need. Finally, from a practical standpoint, determining demand for funding and bandwidth would be difficult if not impossible, without an applications based system. This not only makes it harder to determine progress towards achieving national goals but may create problems for developing future growth and need projections.

The Telecommunications Act of 1996, as interpreted by the Commission, establishes one of the critical tenets of the E-Rate program – that funding be based on an entity's need, not just its mere existence. Sec. 254(h)(1)(B) states that "…the discount shall be an amount that the Commission, with respect to interstate services, and the States, with respect to intrastate services, determine is **appropriate and necessary** <u>to ensure affordable access to and use of such services by such entities</u>."[31] In its very first Universal Service Order to establish the program, the Commission interpreted the law's intent that discounts should be tied to poverty and to a community's ability to pay.[32] Therefore, the Commission created the current structure, which includes both different levels of discount and priority weighted by poverty measures and discount level increases for

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[31] 47 U.S.C. § 254(h)(1)(B) (emphasis added).
[32] *See Universal Service First Report and Order*, 12 FCC Rcd at 9024, paras. 466–468.

rural schools that often see high costs. The Commission deliberately elected not to establish a per pupil funding system, stating:

> "Because educational institutions' funding needs will vary greatly, we find that a per-institution cap, as proposed by AT&T, is likely to lead to arbitrary results and be difficult to administer.   For example, if the per-institution cap were tied to factors such as number of students and the level of discount for which the institution is eligible, as AT&T suggests, this would limit eligible high schools to the same level of support as eligible elementary schools of equal size, even if the former had substantially greater needs for support. We are not aware of any practical way to make fair and equitable adjustments for such varying needs."[33]

EdLiNC agrees with the original position taken by the Commission—any per pupil or per institution allowance or cap does not begin to consider local needs nor the local ability to pay and thus fails to meet the goals set forth in the Telecommunications Act of 1996. We consider it settled administrative law that stands today and should do so tomorrow. Therefore, we believe that the current basis for determining discounts has been and continues to be the best way to address local need and should remain a fundamental aspect of the program.

Beyond the impediments to per pupil funding posed by the statute and the Commission's own decisions, we believe that a per pupil formula makes little practical sense as schools and libraries do not buy services based on per pupil levels but the cost of the particular service. For example, if the cost of network services for a school or library applicant is $10,000 and those services benefit 100 students or patrons, the cost of those services do not drop if, due to changing demographics, 90 students or patrons require service. Schools and libraries need to be able to reach appropriate levels of bandwidth and may not be able to do so with a formula based on population served. Indeed, the argument about the certainty of budgets with per pupil formulas takes on an entirely different cast for rural schools and libraries that actually lose population, thereby receiving less funding than the year before. In such a scenario, such entities may not have enough money from E-Rate to support the services they purchased because their population diminished, along with the formula, while the cost of services remained the same. Urban schools

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[33] *Id*. at 9058–59, para. 538.

and libraries might suffer a similar fate immediately under per pupil funding as any formula could lower the amounts that they receive currently, not sufficiently taking into account the high cost of services in urban areas and the inability of strapped inner city school and library budgets to pay for suddenly more expensive services. Even a possible funding bump for rurality or high cost urban applicants may not be enough to compensate for the cuts that such entities could sustain and their inability to pay for the services they enjoy currently or need soon.

We are also impelled to point out that the promise of flexibility through a per pupil formula system, a benefit suggested in the Notice, may be illusory. Certainly, it is appealing to suggest that schools and libraries can buy whichever eligible service they would like under a per pupil scheme, that appeal quickly begins to wane when urban and rural applicants realize that the formula allocation provides them with far less money than they received before, constraining their choices and forcing cuts to needed services.

Finally, EdLiNC observes that without the current applications-based system, it would become difficult to gauge actual need as well as attainment of new program goals. Currently, the "demand" for funding (as expressed through the E-rate applications) is often used as a proxy for "need." While we believe this proxy to be inaccurate because as we observe above, it understates actual need, we fear that moving to a per-pupil or per-patron figure would obscure actual "need" even further. Under a per pupil system, the "demand" for the fund would be measured as the amount of funding actually disbursed, completing ignoring the "need" of schools and libraries and undercutting the ability of the Commission to determine whether the Universal Service goal of getting eligible services to all applicants is actually being met..

In conclusion, while some would argue that a per pupil formula system would promote equity, we remind the Commission that the goal of universal service was not to provide equitable resources to every school and library in the nation, but to ensure that all eligible schools and libraries had the resources necessary to connect to the larger communications infrastructure and to bring the resources of the globe to schools and libraries, regardless of location, population, or demographics. As demonstrated above, a per pupil system would move us in the opposite direction of universal service's goals, thereby imperiling the ability of rural and urban schools and libraries to maintain existing bandwidth levels and build for the future. We urge the Commission to retain the current applications-based system.

VIII. EdLiNC Supports Streamlining the Application Process and Making the Program More Efficient

The Notice poses questions about ways in which to streamline the E-rate process.[34]   We suspect that the Commission will receive many suggestions in response to the myriad questions that are asked in this regard.   We ask the Commission, however, to consider the full impact of any new changes on all program activities. As EdLiNC made clear at the outset of this filing, we believe that the program is an unqualified success and operates relatively smoothly.   Many of the changes likely to be proposed would not only necessitate potential rule changes at the Commission or processing and IT changes at USAC, but would require applicants and service providers to alter their web sites, institute or revise training, and educate support staff that would be required to answer questions about the changes. The very act of disrupting those forms/processes/interfaces that are familiar to those filing over 46,000 applications may not be effective or efficient. Indeed, it may throw a monkey wrench into the program's and applicants' administrative processes. Therefore, we believe that simply "fixing" some of the current components that lead to program frustrations would be a more efficient and effective approach.

a. Improving Online Applications

EdLiNC believes that the Commission's first order of business should be to improve the online filing process such that applications work correctly and are therefore easy to file. Doing so is likely to generate a higher degree of online filing, will ease the burden for all applicants, and will generate the many efficiencies the Commission seeks from online filing. We do not believe a wholesale overhaul of the application process is necessary, just efforts by the Commission and USAC to resolve obvious and extant problems within the current process.

While we understand the reasoning behind the Commission's apparent desire to mandate online filing of forms, we do not believe that it would be productive to simply require that all forms be filed online. In those instances when forms are not being filed electronically today, we would suggest that "paper" forms may feel safe compared to the online forms due to the catastrophic errors that can occur when trying to file unsuccessfully online. Such errors can include losing the entire form (which can include tens of hours of data input and validation) and generally occur through no fault on the part of the applicant. In addition, assuming that everyone who files

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[34] *See Notice* at paras. 224–247.

applications has access to a computer at any time during the day or at home on nights or weekends is contrary to the fundamental desire to achieve universal access.

We have also assembled a non-exhaustive list of online process issues below, along with some potential solutions:

- The online forms often do not work correctly;
- The online forms do not work intuitively (requiring, for example, tab-based navigation rather than mouse-based navigation in order to avoid certain errors);
- The online forms often do not allow the use of the most recent (and widespread) versions of various browsers and officially do not support some of the most common browsers available today. Even in the browser which is officially supported – Microsoft's Internet Explorer – the most recent versions of the browser are not supported. These incompatibilities (which are encountered by and overcome by other online entities) cause problems not only with trying to navigate the forms but also with printing errors, etc. Asking schools and libraries to uninstall recent versions of browsers—which are often updated automatically—to dumb down to some previous version or to find someone in their organization who may have an older version of a browser is not only time consuming but can be very frustrating, (particularly when multiplied across 46,000 users, many of whom may need assistance from their own technical support staff in order to do so). Making online processes fully compatible with the browsers and other tools that are commonly used for schools and libraries in their general course of business is an obvious course for improvement;
- The online forms often require the re-entry of data multiple times, and fail to give the option of pre-populating the forms with data. This can lead to hours (or, in the case of more complicated applications, tens of hours) of unnecessary repetitive data entry and validation; and
- The online forms are inconsistent in their process, leading to applicant confusion and irritation. For example, the online Form 486 requires applicants to complete Block 1 and Block 2, then skips over Block 3 to require applicants to complete the first part of Block 4. After completing the first part of Block 4, applicants are returned to Block 3, and, upon completing Block 3, are whisked along to complete the second half of Block 4. On

a related note, the online BEAR form (unlike every other form in the process) requires applicants to use a PIN code in order to create the form (not just to certify/complete the form), which in turn has led many applicants to violate the terms of use associated with their PIN codes and share those PIN codes with state coordinators, consultants, and others who assist with the preparation of the forms. A more consistent approach to all the forms, while retaining the now-familiar appearances, would be a significant improvement.

In addition to the need to improve existing systems, we support the idea of tying the existing systems together using an online portal for applicants. An online portal, if done well, could further simplify and streamline the process for applicants, allowing applicants to view their current application status, receive customized information, and take whatever steps are necessary in the application process (be that responding to a review question, filing a form, or even potentially filing an appeal). Given the reality of training tens of thousands of applicants to use a portal, however, we urge that any online portal be kept relatively simple, with intuitive navigation and familiar structures.

b. Eliminating Paperwork

We believe that all eligible applicants should be allowed to choose direct reimbursement through the Billed Entity Applicant Reimbursement (BEAR) form process or something similar at the time the Form 471 is filed. Making this change would eliminate several steps in the application process, including:

- The Form 486, as there would be no need to say "service has started, it's o.k. to pay the service provider" because the applicant would be in control of filing requests for reimbursement based, as is required today, upon receipt of services and payment of invoices in advance of seeking reimbursement;

- Copies of Funding Commitment Decision Letters to service providers as they would simply send invoices for services provided. There would be no need for them to know approved discount levels or commitment amounts because the applicant is paying them in full for services anyway;

- Form 486 Notification Letters for service providers whose corresponding applicants are filing BEARs;

- Form 486 Notification Letters for applicants choosing the BEAR reimbursement process;

- With no Form 486 requirements for those filing BEAR forms, there would be no 120-day filing requirements that in turn, if not timely filed, impact reduction in funds. Appeals would be reduced as would the current practice of sending notice to those applicants who have not timely filed their Form 486 forms; and

- Under the current rules, the applicants are to notify the awarded service provider by the submission of the Form 471. This selections of BEARS or SPIs at the time of filing the 471 would identify which applicants and service providers would need to file which forms and which notifications would be required.

We also support, and have advocated in favor of for many years, the Commission's proposal to develop a multiyear application process. Having a multiyear application which would require little or no additional work by applicants after the first year would dramatically reduce the burden on applicants. Coupled with the online portal concept, we believe both the administrator and applicants could receive significant benefits from such an approach. We believe that these ideas, coupled with others, can dramatically improve the application process and reduce paperwork.

c. Encouraging Consortia

EdLiNC understands the value of consortia applications in terms of increased bargaining power, more efficient use of resources and, last but by no means least, less administrative burden on USAC by lowering the number of applications received. We were heartened to see the results of CoSN's forthcoming survey that indicates that 37% of school districts participate in consortium buying, with some participating in more than one purchasing cooperative.[35] We support efforts by the Commission to incentivize applicants to join consortia but believe that any action by the Commission on this front should take the form of inducements and not mandates. Our comments below on district-wide applications provide more detail on why we arrived at that decision.

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[35] CoSN E-Rate Survey at 1.

IX.   EdLiNC Supports Efforts to Encourage but not Mandate Support Based on District- Wide Eligibility and Applications by School District

Paragraphs 126–132 of the Notice seek public comment on "requiring all schools within a school district to submit applications by district . . . and to use the average discount rate for the entire school district rather than the weighted average for each school building" and whether libraries should use the district's discount rate[36]. EdLiNC appreciates the utility of such a proposal to enhance program efficiency but, as noted below, has concerns about the effect such a change would have on schools within districts with wide income disparities as well as on private schools and charter schools. Therefore, we can support efforts only to encourage district-wide applications but not mandate them. We also cannot support requiring all schools to adopt district-wide discount rates.

EdLiNC supports the efforts of the Commission to simplify the application process for schools and libraries. We believe that administrative efficiencies could be increased by requiring district-wide applications and the use by school districts of a simple district-wide calculation for discounts. We understand that implementing these changes could result in a significant reduction in the complication of creating applications for applicants and the easing USAC's administrative burden.

However, we believe that there are numerous cases where a district-level entity does not have administrative or financial authority over an individual school. While all public school budgets are set district-wide and the non-discounted E-Rate portions of bills are paid by the district, that model does not reflect the financial realities of private schools and most charter schools. Private and charter schools generally operate independently of one another and of school districts, and are individually responsible for their finances and administration. The administrative structures of these private and charter schools and those of public school districts differ greatly and would generally preclude any inclusion or co-mingling of the private and most independent charter schools within a district application. We therefore urge the Commission, should it choose to change the way discounts are calculated, to keep in mind that "districts" are not the appropriate

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[36] *Notice* at paras. 126–132.

administrative authority for many applicants, notably charter and private schools, and that "district" level applications or discounts should not be mandated for these entities.

Moreover, libraries have always had to use the school district discount calculation—which has led to the same inequalities we project some schools might experience. We ask the Commission to provide an analogous method for libraries.

Additionally, EdLiNC is concerned about inequities that may result in assigning a single discount percentage rate to each school in a district, regardless of the different poverty levels in each. School populations vary greatly across sectors of a district and a single district-wide average would penalize schools with highest concentrations of poverty while disproportionately providing additional resources to schools that have significantly fewer students in poverty.

Therefore, EdLiNC must oppose using a single discount percentage rate for the entire school district rather than the actual percentage for each school building. Instead, we recommend that district-wide applications should be encouraged, particularly if there is one billed (and administrative) entity for all of the schools in a district, but should not be mandated for all applications.

X.   EdLiNC Fears Ramifications of Eliminating P1 and P2 Distinctions

Sections 146–148 of the Notice seeks public input on, among other things, "eliminating the distinction between priority one and priority two" either alone or in conjunction with instituting a proposed per pupil funding allocation system.[37] EdLiNC finds that the current priority system works well and meets the program's statutory goals.

As we indicated at the outset of our comments, EdLiNC believes that E-Rate's current system does work well, including the existing priority structure. We continue to believe that poverty is and should remain the main basis for determining funding levels and priority in dissemination during funding shortages. We also must note that under the current system, in each of the program's 15 years, all applicants that have completed and filed successfully their applications

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[37] *Id*. at paras. 146–148.

have received at least Priority 1 discounts. For us, the real problem is not the program's structure but the lack of funding to ensure that more (or, as is the case this year, any) eligible applicants have access to Priority 2 support. In sum, we are in no hurry to fix a priority system that we do not believe to be broken.

EdLiNC recognizes that, on its face, this proposal to collapse the priorities would have some advantages for schools and libraries, particularly in terms of granting them greater flexibility in purchasing decisions. For instance, it would allow them the opportunity to make decisions as to whether to invest their E-Rate support in significant internal connections projects or to continue to pay their monthly telephone and Internet access service bills.

With that said, in digging deeper into this concept, EdLiNC has uncovered significant concerns. First, this concept seems to be in direct opposition to Commission precedent, which plainly values all eligible applicants receiving some funding in the event of funding scarcity. More than 15 years ago, the Commission, in establishing the two priority system, stated:

> The additional new rules of priority described below will equitably provide the greatest assurance of support to the schools and libraries with the greatest levels of economic disadvantage while ensuring that all applicants filing during a window receive at least some support in the event that the amounts requested for support submitted during the filing window exceed the total support available in a funding year. Because these rules of priority utilize the discount matrix, which provides higher discounts for schools and libraries in rural areas, they also equitably provide greater support to schools and libraries in rural areas. These rules, therefore, further implement the Commission's prior decisions to allocate support for schools and libraries in a manner that provides higher levels of support for rural areas and areas with greater economic disadvantage, while recognizing that every eligible school and library should receive some assistance.[38]

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[38] *Federal-State Joint Board on Universal Service*, CC Docket 96-45, Report and Order, 13 FCC Rcd 14915, 14937, para. 35 (1998) *(Schools and Libraries Fifth Order on Reconsideration and Fourth Report and Order).*

EdLiNC does not understand how a "no priorities" system would work under the funding scarcity scenario that grips the program currently. Without the ability to prioritize certain services over others, would entire classes of applicants, starting presumably with those with the lowest eligible discount rates, be denied funding entirely? Or would some other non-poverty methodology have to be employed in deciding which applicants would no longer receive support? Would all applicants have to take substantial across-the-board cuts to their discount rates, causing them to have to pick up a larger (and perhaps unbudgeted) share of eligible service costs? Would particular services have to be eliminated just to allow baseline funding for all and, if so, which services would those be?

From our perspective, many or all applicants would have to make significant sacrifices in order to realize the flexibility that a "no priorities" system would permit. Thus, EdLiNC continues to prefer the current priorities system, which works well and at a minimum guarantees "every eligible school and library receiving some assistance."

Exhibit A

EdLiNC Member Organizations

American Association of School Administrators (AASA)

Association of Educational Service Agencies (AESA)

American Federation of Teachers (AFT)

American Library Association (ALA)

Consortium for School Networking (CoSN)

International Society for Technology in Education (ISTE)

National Association of Elementary School Principals (NAESP)

National Association of Independent Schools (NAIS)

National Association of State Boards of Education (NASBE)

National Association of Secondary School Principals (NASSP)

National Catholic Education Association (NCEA)

National Education Association (NEA)

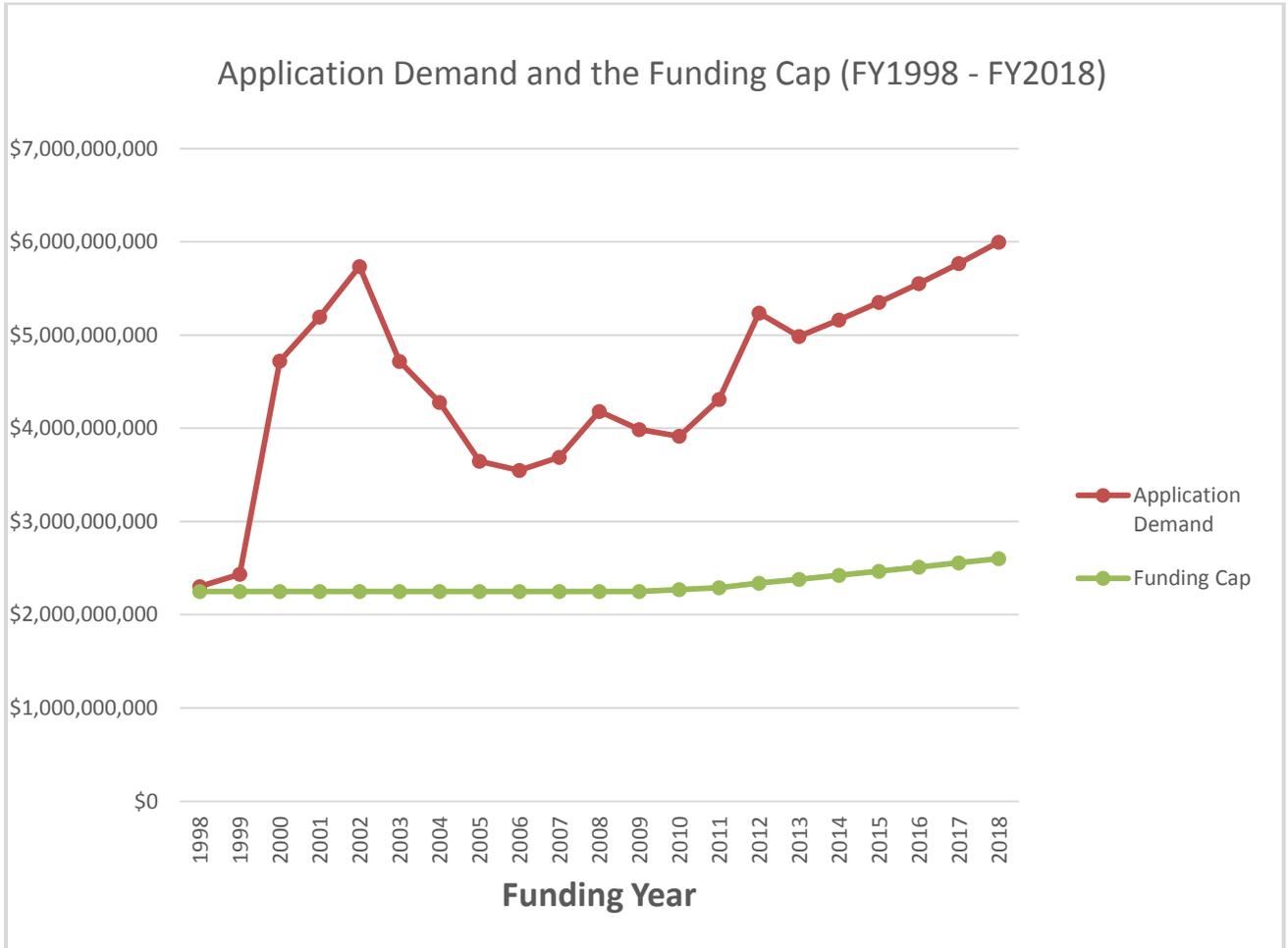National Rural Education Association (NREA)

National Rural Education Advocacy Coalition (NREAC)

National School Boards Association (NSBA)

United States Conference of Catholic Bishops (USCCB)

Exhibit B

Application Demand vs. Funding Cap Graph

Application Demand and the Funding Cap (FY1998 - FY2018)

Exhibit C

Estimated Actual Demand vs. the Funding Cap Graph

Estimated Actual Demand and the Funding Cap (FY1998 - FY2013)