

**Congress of the United States**  
**Washington, DC 20515**

November 25<sup>th</sup>, 2020

The Honorable Ajit V. Pai  
Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington, DC 20554

Dear Chairman Pai,

We write you to urge the Federal Communications Commission (FCC) to support schools and students across the country as we continue to adjust to distanced learning by expanding the reach of the E-rate program to cover digital classrooms in students' or teachers' homes. We know that, to date, you have interpreted the use of "classroom" in the statute establishing the program narrowly, to cover only classrooms physically located in a school, and not the digital classroom many children are attending during this crisis. As the pandemic rages on and the damage to teachers and students without a reliable, high-speed internet connection worsens, we urge you to reconsider your approach and also explore using the FCC's authority to designate additional services under Section 254(c) or investigate the agency's forbearance authority as appropriate to ensure that no student is locked out of the virtual classroom.

In light of the ongoing coronavirus pandemic, school districts have been forced to scramble to accommodate a new teaching paradigm or risk allowing their students to fall behind. Existing FCC programs, such as the E-Rate program, can provide critical assistance to the jurisdictions most in need of additional aid to close the digital learning gap. Unfortunately, the FCC has adopted an unnecessarily limited interpretation of how it can marshal these funds during the pandemic. This school year, even as school districts push to reopen schools as much as possible, the home has become the classroom. Programs such as the E-Rate program must now adapt to this new reality if they hope to improve the ability for our students to succeed. With this in mind, we urge you to adjust your interpretation of the E-Rate program to allow for spending to provide broadband access to disconnected students.

As schools push to reopen nationwide, for most students the bedroom now doubles as the classroom. In order to lower the likelihood of transmission, many of the largest school districts in the country have chosen to transition to a distanced learning model this fall.<sup>1</sup> While this gives us our best chance to overcome this virus, it also creates distinct financial challenges for students and school districts. Nearly 30% of all households lack personal broadband Internet access,

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<sup>1</sup> Grayer, Annie. "Several big US school districts are extending remote classes into the fall." *CNN*. July 15, 2020

rising to over 40% for low-income households throughout the country.<sup>2</sup> Making matters worse, as the pandemic has ground business to a halt, state and local governments will continue to collect fewer taxes creating a structural strain on school budgets. This has presented schools with the impossible choice of either allocating resources to support the necessary capital improvements and safety protocols to reopen schools or to provide students with the supplies they need to assimilate to distanced learning. Fully utilizing the E-Rate program will help alleviate this financial burden on school districts and provide students with the resources they need to succeed.

Expanding the E-Rate program would most directly benefit the low-income households most in need of connectivity. This pandemic has ravaged low-income households, first targeting them for transmission and then compounding the pain via economic devastation. From the beginning of the pandemic, it became clear that low-income households with essential workers were most at risk of negative health outcomes.<sup>3</sup> Necessary social distancing regulations disproportionately impacted many low-income jobs, effectively shuddering the leisure and hospitality sectors causing job postings to drop by nearly 22%.<sup>4</sup> Moreover, low-income students have historically been inordinately prone to absenteeism leading to negative educational outcomes.<sup>5</sup> Taken together, it becomes clear that low-income households stand the most to lose both from the pandemic and from a failure to close the digital learning gap. Failure to provide low-income households with the resources they need will only compound the impact of socio-economic inequality. Low-income students without steady, affordable access to broadband will fall behind in school, potentially causing irreparable harm to their academic achievement. We must take every opportunity available to us to help level the playing field such that all students have an opportunity to succeed.

The transition to distanced learning will persist long enough to justify a more expansive E-Rate program. Ultimately, the crisis caused by this pandemic will only truly subside once a vaccine has been approved and widely distributed. In September, Dr. Fauci told Congress that he does not expect a vaccine to be proven safe and ready for public consumption until the end of 2020 or beginning of 2021.<sup>6</sup> From there, numerous complications related to distribution from storage to transportation could extend the timeline for mass distribution of a successful vaccine to April 2021, or later.<sup>7</sup> In other words, this pandemic and the associated necessary public health protocols will likely persist throughout most of the school year. In the meantime, school districts will likely continue to push to safely reopen schools – potentially suffering through fits and starts of reopening as virus clusters arise. Students without steady broadband access will oscillate

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<sup>2</sup> New American Economy. “Back to School: A Look at the Internet Access Gap.” *New American Economy Research Fund*. August 6, 2020

<sup>3</sup> Goldstein, Amy. “Income emerges as a major predictor of coronavirus infections, along with race.” *Washington Post*. June 22, 2020

<sup>4</sup> Chetty et al. “Percent Change in Employment.” *Opportunity Insights Economic Tracker*. Accessed: Nov. 1, 2020

<sup>5</sup> Garcia, Emma; Weiss, Elaine. “Student Absenteeism: Who misses school and how missing school matters for performance.” *Economic Policy Institute*. Sept. 25, 2018

<sup>6</sup> Lovelace Jr., Berkeley. “Fauci tells Congress the US could have enough coronavirus vaccine doses for every American by April.” *CNBC*. Sept. 23, 2020

<sup>7</sup> Rouben, Rachel; Goldberg, Dan. “Vaccine distribution isn’t as easy as Trump wants people to think.” *Politico*. Sept. 18, 2020

between being able to participate in the classroom while risking their own physical health and being completely locked out from their government mandated education.

Therefore, we urge the FCC to work to update the E-Rate program to address this crisis, including but not limited to the following:

- 1) Make the purchase of hardware and off-premise internet access E-Rate eligible;
- 2) Waive relevant competitive bidding and contractual requirements for the E-Rate program, as appropriate;
- 3) Ensure that internet accessed through the expanded program follows appropriate rules to protect children online, as required by the E-Rate statute;

Using E-Rate to meet this moment would not only fit neatly with the program's underlying statutory authority, but it would also address a key issue of equity amidst the pandemic. We look forward to your response on this critical program.

Sincerely,

A handwritten signature in black ink that reads "Yvette D. Clarke" with "M.C." written in smaller letters below the name.

Yvette D. Clarke  
Member of Congress

/s/ Nanette Diaz Barragán  
Member of Congress

/s/ Adriano Espaillat  
Member of Congress

/s/ Joseph D. Morelle  
Member of Congress

/s/ Carolyn B. Maloney  
Member of Congress

/s/ Jerrold Nadler  
Member of Congress

/s/ Raul Ruiz, M.D.  
Member of Congress

/s/ Max Rose  
Member of Congress