

THE SENATE  
STATE OF NEW YORK



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February 16, 2021

Marlene H. Dortch, Secretary  
Federal Communications Commission  
45 L Street NE  
Washington, DC 20554

**RE: Comments Regarding Use of E-Rate Funds for Remote Learning During the Covid-19 Pandemic  
(WC Docket No. 21-31)**

Dear Ms. Dortch,

As Chairs of the New York State Senate Committees on Education and New York City Education, our foremost duties are to be advocates for the students of New York State. During the COVID-19 pandemic, these roles are more important, and the duty to fulfill them more challenging, than ever before.

Section 1 of Article XI of the New York State Constitution states, "The legislature shall provide for the maintenance and support of a system of free common schools, wherein all the children of this state may be educated." In a time when so much of learning is remote, schools must necessarily extend beyond the school grounds in order to serve their students. If the State cannot enable schools to reach students beyond the physical classroom, the State risks failing to fulfill its constitutional mandate.

Resources to keep students connected to their schools are limited throughout the nation, and it is no different in New York State. This situation exacerbates educational disparities, and in the absence of a full return to in-classroom instruction, learning will continue to suffer without more assistance.

We, in partnership with many of our colleagues, have introduced legislation to fund high quality broadband for every student in New York State during the COVID-19 emergency through assessments and invoice reduction requirements on telecommunications companies. However, the effects of the pandemic on education will extend well beyond the state of emergency. An expanded E-Rate program could help bridge us beyond the variety of emergency measures needed to stem today's learning losses and ensure that students have the resources to eventually rebound from this period of deficiencies.

Accordingly, we strongly support explicit approval by the FCC (or the Wireline Competition Bureau, on delegated authority) of the use of E-Rate funds for remote learning equipment and services, especially for purposes of providing broadband service to students who currently lack such access. In addition, because of the immediate nature of the problem, the FCC (or the Wireline Competition Bureau, on delegated authority) should, without compromising program integrity, waive rules that would unnecessarily delay distribution or use of funds, and direct the Universal Service Administrative Company to provide a new and separate application filing period specific to remote learning needs.

What follows are limited additional comments specific to certain of the issues on which the FCC requests comment.

#### *Need for Swift Action; Eligible Equipment and Services*

Until there is a full return to in-classroom instruction, broadband access at students' places of residence is essential to support remote learning. Without high quality Internet connectivity, students in a remote learning setting are effectively deprived of their education. Noting that the school year is already more than half over, it is clear that those without broadband now would already have secured it if they could have, and remain in sore need of assistance.

Because students are learning in all different geographies and circumstances, there should not be eligibility restrictions with respect to particular services or equipment – local education officials should have flexibility to provide access in the most efficient manner possible as soon as possible.

In terms of the quality of the connection, each student (not just each household) should have continuous access, 24 hours a day, seven days a week, and throughout the school year, to a connection that is guaranteed to support uninterrupted online learning via Zoom, Webex, and other tools that require high quality broadband. The FCC should take such measures as are necessary to ensure, not only that schools have the resources to provide high quality Internet access, but that service providers do not act in such a way as to frustrate this intent (e.g. throttling).

#### *Cost Considerations; Funding Process*

Given that funding is likely insufficient to serve all students in need, the FCC will need to weigh the competing interests of maximizing the benefit of each dollar with recognizing the urgency of the

daily losses for those students challenged by a remote learning environment without adequate Internet service. To the extent possible while maintaining program integrity, rules should be reviewed and streamlined to facilitate prompt and effective delivery of resources to schools and students.

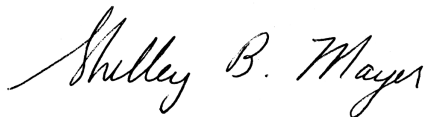
*Authority*

Certain petitioners and other commenters have already made a strong case that the FCC and the Wireline Competition Bureau have sufficient authority and discretion to expand the E-Rate program to assist with remote learning. We would further note that the dire situation of many students merits extraordinary efforts to address the lack of sufficient broadband availability and, accordingly, the FCC should examine all available options for doing so.

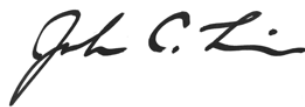
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In summary, we ask the FCC to act with all speed and flexibility to expand the E-Rate program to include remote learning. The situation is urgent, and so must be the response.

Respectfully,



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Senator, 37<sup>th</sup> Senate District  
Chair, Committee on Education  
New York State Senate



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