



April 22, 2021

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
45 L Street N.E.  
Washington, DC 20554  
*Via Electronic Mail:* <https://www.fcc.gov/ecfs/filings>

***Re: WC Docket No. 21-93: Emergency Connectivity Fund For Educational Connections And Devices To Address The Homework Gap During The Pandemic***

The Education Law Center-PA submits this Reply Comment in response to the Federal Communication Commission’s (“the Commission”) request for comments regarding implementation of the Emergency Connectivity Fund (“ECF”). Specifically, the Commission poses several questions to stakeholders including: (1) what rules should the Commission adopt to most efficiently and effectively distribute funding; (2) how should the Commission measure the effectiveness and impact of the ECF and what goals should be established, and data collected to evaluate progress towards meeting those goals; and (3) what issues should be considered when adopting requirements for connected devices.

ELC urges the Commission to adopt rules and measures to ensure equitable access to learning for students most marginalized by lack of connectivity, including targeting funding to those most harmed by learning losses during the pandemic, particularly Black and Brown students. We also urge the Commission to undertake specific measures to ensure that connected devices are accessible to all students, particularly students with disabilities and English Learners.

***Who We Are***

The Education Law Center-PA (“ELC”) is a statewide non-profit legal advocacy organization dedicated to ensuring that all of Pennsylvania’s students have access to a quality public education. We advocate on behalf of students who are most underserved, including children living in poverty, children of color, children with disabilities, English Learners, those who are in the child welfare and juvenile justice systems, LGBTQ youth, and students who are experiencing homelessness. Our advocacy aims to ensure that the decisions made by policymakers serve the needs of children who are most marginalized. Our comments emanate from our on-the-ground experience providing support, individual advocacy, legal representation, and technical assistance to the families and students throughout the pandemic, as well as our experience working in partnership with grassroots community organizations and state and local

agencies that serve students impacted by racism, poverty, and academic needs that further widen educational inequities.

### ***Bridging the Digital Divide By Prioritizing Students Who Are Most Marginalized***

It is well documented that throughout the pandemic, lack of access to devices and high-speed internet disproportionately impacted students who were already marginalized: students of color, those living in poverty, children with disabilities, English Learners, and children experiencing homelessness. This resulted in stark and disparate learning losses for these students. For example, reports by both the Education Week Research Center and RAND reflect that schools serving students in poverty and schools that serve majority Black and Brown students were more likely to be provided with inferior remote learning opportunities and less likely to have access to a digital device or the internet access. Consequently, these students were more likely to fall behind their peers during COVID-19 due to these barriers.<sup>1</sup> One study concluded that while the average student fell seven months behind academically during last school year alone, students who are Black and Latinx were likely to experience even greater learning losses: equivalent to 10 months for Black students and 9 months for Latinx children due to the inability to access high quality digital learning.<sup>2</sup> This gap only widened this school year as the pandemic continued.

The ECF provides an opportunity to close these gaps by prioritizing the needs of students most impacted by learning losses. The goal of greater educational equity can only be achieved if the ECF is implemented in a manner that intentionally prioritizes these students for its benefits. Accordingly, we recommend that ECF funding incentivize targeting resources for students in low wealth districts and students of color and that this priority be reflected in specific implementation goals and any assessment of the program's impact.

### ***Meeting The Needs of Students With Unique Needs***

In addition, the Commission must acknowledge and address the circumstances of student cohorts with additional academic challenges and ensure that implementation is undertaken to address their unique needs.

The digital divide is multifaceted and complex. While it certainly includes unequal access to computers for remote learning and unequal access to the internet, it also encompasses information gaps around how to use technology and educational platforms, unequal technical

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<sup>1</sup>*In-Person Learning Expands, Student Absences Up, Teachers Work Longer, Survey Shows*, Oct. 15, 2020, available at <https://www.edweek.org/leadership/in-person-learning-expands-student-absences-up-teachers-work-longer-survey-shows/2020/10>.

<sup>2</sup> *COVID-19 and student learning in the United States: The hurt could last a lifetime*, June 2020, available at <https://www.mckinsey.com/~/media/McKinsey/Industries/Public%20and%20Social%20Sector/Our%20Insights/COVID-19%20and%20student%20learning%20in%20the%20United%20States%20The%20hurt%20could%20last%20a%20lifetime/COVID-19-and-student-learning-in-the-United-States-FINAL.pdf>.

support provided by schools, the need to for differentiated support for limited English proficient parents, English learners, and students with disabilities, as well as differential needs of students experiencing housing instability or in shelters, social-emotional stress, and health issues experienced by students living in poverty. The ECF must pay special attention to specific and often overlooked needs of students with disabilities, English learners, and students experiencing homelessness in order to make a meaningful impact on bridging the digital divide. These concerns should inform implementation goals of equity, assessment of progress toward that goal and be reflected in requirements the FCC adopts for connected devices.

First, implementation of the Emergency Connectivity Fund should address and prioritize the needs of students with disabilities, many of whom may continue to use virtual instruction in due to health and safety concerns stemming from their disabilities. To make virtual learning more accessible to these students, the ECF should ensure that all devices and information regarding the use of the devices is perceivable, operable, understandable, and robust in accordance with accessibility guidelines.<sup>3</sup> The devices that are given to students with disabilities should have appropriate accommodations and assistive technologies such as text-to-speech software, an option to magnify screen text, as well as web captions or access to transcripts of video recordings.<sup>4</sup> Devices should be equipped with tools that aid learning for students with disabilities in order to ensure that they do not fall behind.

Second, English learners (ELs) face unique but common barriers that prevent them from accessing remote learning at all -- from logging on to navigating digital portals, to meaningfully engaging with the curriculum and receiving effective language instruction in a remote environment. Too many ELs are still not even getting through the virtual schoolhouse gate, and thus receive no benefit and make no progress in their education -- which is a clear civil right under state constitutional law, state statute, and federal law.<sup>5</sup> Many are unable to overcome technology and language barriers to even log onto remote learning successfully or navigate English-only digital platforms, so they are not accessing instruction in a meaningful way. A survey conducted by Latino Decisions found that 76 percent of Spanish-speaking parents want more technical support with learning websites and apps and 71 percent needed more help navigating distance learning platforms.<sup>6</sup> While roughly 75 percent of the nation's 5 million English-learners are native Spanish speakers more than a million are not.<sup>7</sup> The ECF must ensure that digital instruction materials and any device-pertinent information is provided in multiple languages in order to accommodate all English learners and their families and that ELs can access English as a Second Language curriculum online.

Third, students living in deep poverty and those experiencing homelessness or housing instability should be prioritized for access to hotspots and devices because of their limited access

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<sup>3</sup> See *The National Center for Accessible Education Materials, Vetting Accessibility*.  
<https://aem.cast.org/acquire/vetting-accessibility>

<sup>4</sup> Mitchell, Corey. "Bridging Distance for Learners With Special Needs." Education Week, September 17, 2020.  
<https://www.edweek.org/teaching-learning/bridging-distance-for-learners-with-special-needs/2020/09>.

<sup>5</sup> See e.g., PA. Const. Art. III, §§ 14 and 32; 24 P.S. §13-1302, Title VI of the Civil Rights Act, 42 U.S.C. § 2000d et seq., and Equal Educational Opportunities Act of 1974, 20 U.S.C § 1703.

<sup>6</sup> See "Latino Parent Voices: What Our Families Need Now" pages 4 & 5 [https://nationalsurvey.ap-od.org/wp-content/uploads/2020/08/LatinoParentVoices\\_Report.pdf](https://nationalsurvey.ap-od.org/wp-content/uploads/2020/08/LatinoParentVoices_Report.pdf)

<sup>7</sup> Mitchell, Corey. "Bridging Distance for Learners With Special Needs." Education Week, September 17, 2020.  
<https://www.edweek.org/teaching-learning/bridging-distance-for-learners-with-special-needs/2020/09>.

to computers and internet access. The ECF distribution policies, goals, assessment of impact, and requirements for connected devices should reflect this prioritization.

Those who live in shelters or move around a lot due to poverty have suffered from inequitable access to the education long before the pandemic began. Without dependable internet access and devices, students experiencing homelessness those who are highly mobile are not able to access virtual learning to the same extent as their peers. ELC continues to receive calls regarding students who cannot participate in on-line learning due to lack of high-speed internet and hot spots. This is a common problem for students who are experiencing homelessness, particularly those living in shelters and students who are doubled up living with others and may live part of the week in one home and then another. For example, one family shelter in Philadelphia serves over 200 people, including over 100 students. There, children struggle to access remote instruction. In some cases, five children are sharing one hot spot even though Philadelphia's PHLConnectEd program only recommends three devices per hot spot. Children who move around and live in different locations also need additional access at more than one location. The absence of sufficient bandwidth leads children to be pushed out of learning entirely.

### ***Conclusion***

In sum, the Emergency Connectivity Fund can be a useful tool for bridging the digital divide if it prioritizes students who are marginalized and most impacted by learning losses and also considers the unique needs and experiences of students with disabilities, English Learners, and students living in poverty, particularly those experiencing homelessness. As the pandemic has laid bare, simply giving all students the same access to devices does not mean they will all access learning to same extent. Because of this, the FCC needs to be intentional in the way it provides resources to students through the ECF. Students who have experienced the greatest harm, particularly Black and Brown students, those living in poverty, students with disabilities, and English Learners need reliable access to devices and internet that will work for their specific needs to keep them from falling further behind. Internet access and connected devices must be modified as needed for these students.

The Education Law Center encourages the FCC to adopt policies in administering the ECF funding, distributing devices, adopting requirements for connected devices, and assessing the impact of ECF funding that will address and center these equity recommendations to ensure that students who are most marginalized by poverty, homelessness, racism, language barriers and disabilities receive the essential supports they need to access quality learning.

Sincerely,



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