

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

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

ORDER

Adopted: December 15, 2023

Released: December 15, 2023

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this Order, the Wireline Competition Bureau (Bureau) adopts the final eligible services list for funding year 2024 for the schools and libraries universal service support program (more commonly referred to as the E-Rate program).1 Based on the record, we adopt the eligible services list for funding year 2024 as proposed in the Bureau’s Funding Year 2024 Eligible Services List Supplemental Public Notice with minor modifications.2 We also release the final eligible services list for funding year 2024 and authorize the Universal Service Administrative Company (USAC) to open the annual FCC Form 471 application filing window.3 In doing so, we find good cause to waive the requirement in section 54.502(e) of the Commission’s rules that the final eligible services list be released at least 60 days prior to the opening of the application filing window.4 By waiving this administrative requirement, we open the application filing window with enough time for applicants to submit and USAC to process funding year 2024 FCC Form 471 applications.

II. FUNDING YEAR 2024 ELIGIBLE SERVICES LIST

A. Background

2. Sections 254(c)(1), (c)(3), (h)(1)(B), and (h)(2) of the Communications Act of 1934, as amended, collectively grant the Commission authority to specify the services that will be supported for eligible schools and libraries and to design the specific mechanisms for support.5 Pursuant to this

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

2 Wireline Competition Bureau Seeks Additional Comment on Adding Wi-Fi on School Buses to Proposed Eligible Services List for the E-Rate Program, WC Docket No. 13-184, Public Notice, DA 23-1011 (WCB 2023) (Funding Year 2024 Eligible Services List Supplemental Public Notice).

3 See Schools and Libraries Universal Service Support Mechanism, Eligible Services List for Funding Year 2023 (FY 2023 Eligible Services List), infra Appendix B; 47 CFR § 54.502(e) (requiring the final eligible services list to be released at least 60 days prior to the opening of the application filing window).

4 47 CFR § 54.502(e).

5 47 U.S.C. §§ 254(c)(1), (c)(3), (h)(1)(B), (h)(2).

authority, the Commission delegated responsibility to the Bureau to annually seek public comment on the proposed eligible services list.<sup>6</sup>

3. On September 12, 2023, the Bureau issued a *Funding Year 2024 Eligible Services List Public Notice* and sought comment on several proposed minor clarifications to the draft eligible services list for funding year 2024.<sup>7</sup> In the “Data Transmission and/or Internet Access” section of the draft, we proposed to revise note (1) to clarify that the software necessary to operate or maintain Category One network equipment is eligible. In the same section, we also proposed to add a new note (5) to clarify that consulting fees not related to the installation and configuration of eligible components are ineligible.<sup>8</sup> We received one comment and two reply comments in response to the *Funding Year 2024 Eligible Services List Public Notice*.<sup>9</sup>

4. On October 19, 2023, the Commission adopted a Declaratory Ruling addressing the eligibility of Wi-Fi on school buses.<sup>10</sup> In the *Wi-Fi on School Buses Declaratory Ruling*, the Commission clarified that the use of Wi-Fi, or other similar access point technologies, on school buses is an educational purpose, and the provision of such service, including the equipment needed to provide such service, is eligible for E-Rate support.<sup>11</sup> The Declaratory Ruling directed the Bureau to fund these services and seek comment on, among other things, the specific services and equipment that would be eligible as part of the eligible services list proceeding for funding year 2024.<sup>12</sup>

5. Shortly after the release of the Declaratory Ruling on October 25, 2023, the Bureau issued a *Funding Year 2024 Eligible Services List Supplemental Public Notice* in which we proposed to modify the draft eligible services list for funding year 2024 by including mobile broadband connectivity for school buses.<sup>13</sup> We also sought comment on several aspects of making Wi-Fi on school buses eligible for E-Rate support. First, we sought comment on the equipment that would be needed to provide Wi-Fi on school buses and whether this equipment should be eligible as a Category One or Category Two service.<sup>14</sup> Second, we sought comment on how to ensure that the use of Wi-Fi equipment and services on school buses is consistent with E-Rate program rules and whether any restrictions or limitations should be imposed on its use.<sup>15</sup> Third, we sought comment on how to ensure that support is only provided primarily for educational purposes and the types of measures already being implemented by schools to limit access to student and school staff users, and on any concerns raised by the use of such measures.<sup>16</sup> Fourth, we sought comment on the Commission’s assessment in the *Wi-Fi on School Buses Declaratory Ruling* that

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<sup>6</sup> See 47 CFR § 54.502(e).

<sup>7</sup> *Wireline Competition Bureau Seeks Comment on Proposed Eligible Services List for the E-Rate Program*, WC Docket No. 13-184, Public Notice, DA 23-819 (WCB 2023) (*Funding Year 2024 Eligible Services List Public Notice*).

<sup>8</sup> *Funding Year 2024 Eligible Services List Public Notice* at 1, 5. In addition, in the “Wireless services and wireless Internet access” section, we proposed to clarify that off-campus use is “generally” ineligible for support. *Id.* at 9.

<sup>9</sup> See Appendix A. Appendix A contains a list of the commenters and the acronyms, if any, used herein to refer to these commenters.

<sup>10</sup> *Modernizing the E-Rate Program for Schools and Libraries*, WC Docket No. 13-184, Declaratory Ruling, FCC 23-84 (rel. Oct. 25, 2023) (*Wi-Fi on School Buses Declaratory Ruling*).

<sup>11</sup> *Wi-Fi on School Buses Declaratory Ruling* at 6, para. 9.

<sup>12</sup> See *id.* at 8, para. 12.

<sup>13</sup> *Funding Year 2024 Eligible Services List Supplemental Public Notice* at 1.

<sup>14</sup> *Id.* at 1-2.

<sup>15</sup> *Id.* at 2.

<sup>16</sup> *Id.*

“any potential impact of [its] action on the E-Rate program budget and the Universal Service Fund would be nominal compared to the substantial benefit reaped by students,” and on the estimated average cost of \$1,840 per school bus per year.<sup>17</sup> Finally, we sought comment on whether any changes may be needed to the “Eligibility Explanations for Certain Category One and Category Two Services” for “Wireless services and wireless Internet access services” explanation in the draft eligible services list and on our tentative conclusion that applicants do not need to conduct a cost comparison to other technological approaches as part of their wireless service funding requests related to school buses.<sup>18</sup> We received 18 comments in response to these proposals and questions based on the *Funding Year 2024 Eligible Services List Supplemental Public Notice*.<sup>19</sup>

## B. Discussion

6. As an initial matter, with respect to funding year 2024, we waive the requirement in section 54.502(e) of the Commission’s rules that the eligible services list be released at least 60 days prior to the opening of the application filing window.<sup>20</sup> Section 1.3 of the Commission’s rules allows the Commission to waive a rule on its own motion for good cause shown.<sup>21</sup> To ensure that the FCC Form 471 application filing window opens with enough time to allow applicants to submit and USAC to process applications for funding year 2024, we find a waiver of our rule is appropriate and in the public interest.<sup>22</sup> In waiving our rule, we are particularly cognizant of the need to ensure that both applicants and USAC have as much time as they had last year to submit and process applications. We therefore find special circumstances to waive section 54.502(e) of the Commission’s rules.<sup>23</sup>

7. Having considered the record, we update the final eligible services list for funding year 2024, attached as Appendix B to this Order, by adopting each of our proposed changes from the *Funding Year 2024 Eligible Services Public Notice*.<sup>24</sup> Specifically, in the “Data Transmission and/or Internet Access” section of the draft, we revise note (1) to clarify that the software necessary to operate or maintain Category One network equipment is eligible. In the same section, we also add a new note (5) to clarify that consulting fees not related to the installation and configuration of eligible components are ineligible. We did not receive any comments regarding these two specific proposals.

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<sup>17</sup> *Funding Year 2024 Eligible Services List Supplemental Public Notice* at 2; *Wi-Fi on School Buses Declaratory Ruling* at 8-9, para 13.

<sup>18</sup> *Funding Year 2024 Eligible Services List Supplemental Public Notice* at 2.

<sup>19</sup> See Appendix A.

<sup>20</sup> See 47 CFR § 54.502(e).

<sup>21</sup> See 47 CFR § 1.3. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*). In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. *Id.*

<sup>22</sup> *Northeast Cellular*, 897 F.2d at 1166 (stating that the Commission may waive a rule when strict compliance does not serve the public interest).

<sup>23</sup> See, e.g., *Modernizing the E-Rate Program for Schools and Libraries*, 34 FCC Rcd at 11219, 11242-43, para. 62 (2019) (*Category Two Report and Order*) (finding good cause to waive the 60-day rule for opening the filing window after issuance of the eligible services list to allow USAC and applicants with sufficient time to submit and process funding applications for funding year 2020); *Modernizing the E-Rate Program for Schools and Libraries*, WC Docket 13-184, Order, 2022 WL 17886489, \*2, para. 5 (WCB Dec. 14, 2022) (same).

<sup>24</sup> *Funding Year 2024 Eligible Services List Public Notice* at 1, Attachment.

8. Next, we address changes to the final eligible services list related to the proposals and questions included in the *Funding Year 2024 Eligible Services List Supplemental Notice*.<sup>25</sup> First, we adopt our proposal to make mobile broadband connectivity for school buses eligible for E-Rate support as a Category One service.<sup>26</sup> In doing so, we note that nearly all commenters support adopting this proposal.<sup>27</sup> In the *Funding Year 2024 Eligible Services List Supplemental Notice*, we proposed to modify the Wireless bullet to: “Wireless (e.g. fixed wireless, microwave, or mobile).”<sup>28</sup> Verizon, in its comments, stated that the language should further be modified to avoid confusion between school bus connectivity and data plans for mobile devices generally.<sup>29</sup> We agree with Verizon’s suggestion, and accordingly modify the Eligible Service List’s Wireless bullet to: “Wireless (e.g., fixed wireless; microwave; or mobile service for use on school buses).”<sup>30</sup> We further clarify that the equipment needed to make this service functional (e.g., antennas, routers, modems), as well as associated installation fees, are also eligible as a Category One service.<sup>31</sup> We find that this single-tier classification approach will ease administrative burdens for USAC and applicants in this developing technology area, while staying within the E-Rate program budget.<sup>32</sup> We decline to make maintenance and operation services eligible at

<sup>25</sup> Consistent with the Bureau’s responsibility to annually seek public comment on the proposed eligible services list, our determinations regarding the eligibility of Wi-Fi service on school buses are subject to further modifications in future funding years, as we refine our understanding of the school bus Wi-Fi equipment and service options.

<sup>26</sup> *Funding Year 2024 Eligible Services List Supplemental Public Notice* at 1.

<sup>27</sup> See, e.g., E-Rate Central Comments at 2; Kajeet Comments at 2; Lea Bogle Comments at 1; Los Angeles USD Comments at 1-2; SHLB Comments at 7; SECA *Ex Parte* at 1; SECA Comments at 4; T-Mobile Comments at 2.

<sup>28</sup> *Funding Year 2024 Eligible Services List Supplemental Public Notice* at 1.

<sup>29</sup> Verizon Comments at 2.

<sup>30</sup> SECA and E-Rate Central both suggest that we also delete the phrase “Off-campus use even if used for an educational purpose is generally ineligible for support, and must be cost allocated out of any funding request” in the FY 2024 Eligible Services List. SECA Comments at 7; E-Rate Central Comments at 4. While we reject this proposal, we have added another sentence to note that the use of off-campus wireless service on a school bus serves an educational purpose and, therefore, such service to a school bus is eligible for E-Rate support. However, we emphasize and remind applicants that, in general, off-campus use of E-Rate-funded services remains ineligible for E-Rate support and must be cost-allocated and removed from the funding request.

<sup>31</sup> See *Funding Year 2024 Eligible Services List Supplemental Public Notice* at 1 (seeking comment on whether equipment should be eligible as a Category One or Category Two service). We decline, however, to adopt E-Rate Central’s proposal that annual Wi-Fi equipment service contracts, or other similar warranty contracts, be eligible for funding, as these types of contracts are ineligible for Category One support. See, e.g., E-Rate Central Comments at 2; SECA Comments at 4; SHLB Comments at 11.

<sup>32</sup> We draw this conclusion based on the Commission’s estimate that the cost of providing Wi-Fi for school buses is on average \$1,840 per school bus per year, *Funding Year 2024 Eligible Services List Supplemental Public Notice* at 2, and we note that commenters generally agree with this average cost. See, e.g., E-Rate Central Comments at 3-4 (opining that the Commission’s estimate is an accurate measure of the three-year average costs, but that first year costs will be higher than the Commission’s estimate); KB & Associates Comments 3-4, SECA Comments at 6 (opining that while average first year costs would be approximately 50% higher than the Commission’s estimate, overall costs would fall within the funding cap); Verizon Comments at 4 (not disputing the Commission’s dollar estimate, but arguing that the Commission should use separate estimates for equipment costs and mobile broadband costs). Further, we agree with commenters that the costs for providing such service would fall within the program’s funding cap. For example, we agree with E-Rate Central’s estimate that, even if 500,000 school buses in the United States were to receive funding at an average cost of \$1,840 per school bus per year, and at an average discount rate of 75%, the total demand to the E-Rate program would be approximately \$3.5 billion, below the program’s funding cap for FY2023 of \$4.77 billion. See E-Rate Central Comments at 3-4; see also *Wireline Competition Bureau Announces E-Rate and RHC Programs’ Inflation-Based Caps for Funding Year 2023*, CC Docket No. 02-6, Public Notice, DA 23-178 (WCB 2023). Other commenters estimate that the total E-Rate program demand, when accounting for the addition of bus Wi-Fi, would be closer to \$3 billion. See, e.g., E-Rate Provider Services Comments at 4; KB & Associates Comments at 3-4; SHLB Comments at 13-14; SECA Comments at 6.

this time.<sup>33</sup> Although we have determined that this equipment should be treated as a Category One service, maintenance and operation services are limited to network equipment for owned or leased dark fiber networks.<sup>34</sup> We note that we may revise these eligibility determinations in a future funding year upon further review of the costs associated with these services and equipment.

9. In the *2024 Eligible Services List Supplemental Public Notice*, we also sought comment on what restrictions or limitations are needed to ensure that funded equipment and services on school buses are used primarily for educational purposes and are otherwise consistent with E-Rate rules.<sup>35</sup> We expect applicants to implement content and user network restrictions consistent with the restrictions that they place on their building-based broadband network, as described in their Acceptable Use Policies (AUPs) and any other policies that limit a school's network access.<sup>36</sup> Schools have Children's Internet Protection Act (CIPA)-required content filtering capabilities in place for their school-based networks,<sup>37</sup> and we expect schools to implement the same filtering capability for a school's network provided through school bus Wi-Fi. We find that this approach provides reasonable limits to ensure that E-Rate-funded services are primarily used for educational purposes in accordance with the schools' existing AUPs and filtering requirements.<sup>38</sup>

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<sup>33</sup> See, e.g., Kajeet Comments at 2 (requesting support for "ongoing maintenance and support"); Los Angeles USD Comments at 2 (requesting support for "operational costs").

<sup>34</sup> *Modernizing the E-Rate Program for Schools and Libraries*, WC Docket No. 13-184, Order, 30 FCC Rcd 9923, para. 12 (WCB 2015) (finding that network equipment and maintenance and operation services of network equipment are eligible under Category One when purchased for self-provisioned networks and leased dark fiber networks that are lit by E-Rate applicants, in order to equalize the treatment of lit and dark fiber and to support self-provisioned broadband networks). Because bus Wi-Fi is not a self-provisioned network, nor dark fiber lit by an E-Rate applicant, maintenance and operation services of bus Wi-Fi equipment are ineligible for support.

<sup>35</sup> *Funding Year 2024 Eligible Services List Supplemental Public Notice* at 2.

<sup>36</sup> See, e.g., SHLB Comments at 10-11 (arguing against restricting use of bus Wi-Fi solely to students and staff); SECA Comments at 4-5 (same). Further, we agree with Wisconsin DPI's views that a school's existing AUPs typically define acceptable use and are focused on limiting access to that which serves an educational purpose. Wisconsin DPI Comments at 3-4. See also SHLB Comments at 8; Kajeet Comments at 2-3.

<sup>37</sup> See S. Rep. No. 106-141 (1999), <https://www.congress.gov/106/crpt/srpt141/CRPT-106srpt141.pdf>. Independent of this requirement, we remind applicants that the Commission previously determined that CIPA also applies to the use of school-owned computers if the school accepts E-Rate or Emergency Connectivity Fund support for Internet access, Internet services, or network equipment for Internet access or Internet services that will be used by any school- or library-owned computers, or E-Rate support for internal connections or network equipment for internal connections that will be used by any school- or library-owned computers, regardless of whether it is used off-campus. See *Establishing the Emergency Connectivity Fund to Close the Homework Gap*, WC Docket No. 21-93, Report and Order, 36 FCC Rcd 8696, 8746-49, paras. 108-14 (2021); see also FCC, *Emergency Connectivity Fund FAQs: FAQ 10.1*, [https://www.fcc.gov/sites/default/files/ecf\\_faqs\\_printable\\_pdf.pdf](https://www.fcc.gov/sites/default/files/ecf_faqs_printable_pdf.pdf) (last visited Nov. 27, 2023); See E-Rate Central Comments at 6; NCTA Nov. 30, 2023, Comments at 2; SHLB Comments at 8-9. We also deny SHLB's request that E-Rate funds be used to pay for CIPA implementation costs. See SHLB Comments at 9. The Commission previously determined that E-Rate recipients are statutorily prohibited from obtaining discounts under the universal service support mechanism for the purchase or acquisition of technology protection measures necessary for CIPA compliance. See *Federal-State Joint Board on Universal Service; Children's Internet Protection Act*, CC Docket No. 96-45, Report and Order, 16 FCC Rcd 8182, 8204, paras. 54-55 (2001) ("The statutory language is clear—no sources of funds other than those available under the Elementary and Secondary Act of 1965 or the Library Services and Technology Act are authorized for the purchase of acquisition of technology protection measures under CIPA.").

<sup>38</sup> SECA *Ex Parte* at 2; Advocates for the EMS Disabled Comments at 5; Lea Bogle Comments at 1.

10. We also clarify the scope of the Commission’s prohibition on redundant or duplicative services<sup>39</sup> as it relates to school bus wireless services. First, a school may enter into service contracts with multiple service providers, to the extent that some buses are served by one provider, and other buses served by a different provider. Additionally, because we are concerned that buses in rural areas may be more likely to cross between service areas of multiple service providers along the same bus route, applicants with a rural designation may request funding for a solution that allows one bus to be served by multiple service providers.<sup>40</sup> We remind all applicants that, pursuant to E-Rate program rules, they must select the most cost-effective service offering(s), using price of the eligible equipment and services as the primary factor.<sup>41</sup>

11. We find that applicants may request E-Rate support for school bus Wi-Fi services and the necessary equipment to make it functional for installation on school-owned, as well as leased or contracted, school buses, provided that the school buses are used primarily to transport students to and from school and school-related activities for educational purposes as defined by our rules.<sup>42</sup> In doing so, we exclude, for example, occasionally-used chartered buses (e.g., used for school field trips), municipal and city buses generally used for the transport of non-students, and other types of school-owned, leased, or contracted vehicles (e.g., vans and cars). We decline to make chartered, municipal, or city buses eligible as requested by some commenters,<sup>43</sup> as we find that this approach strikes a reasonable balance by making wireless Internet access widely available to students for educational purposes, while also conserving limited E-Rate funds. We further find that this restriction would prevent the use of E-Rate funds to pay for the installation of equipment and devices on buses that are not used for educational purposes (e.g., transporting students to and from school and school-related activities). We also decline to expand eligibility to other types of school-owned vehicles (e.g., cars and vans) at this time, and limit eligibility to school-owned, leased, or contracted school buses.<sup>44</sup> We remind applicants that they will own the E-Rate-funded equipment and are expected to work with their leased or contracted school bus providers to maintain an accurate asset inventory of the E-Rate-funded equipment.<sup>45</sup> We also remind applicants of the prohibition on resale of E-Rate-supported equipment and services,<sup>46</sup> and the

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<sup>39</sup> See, e.g., *Schools and Libraries Universal Support Mechanism*, CC Docket No. 02-6, Second Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 9202, 9209-11, paras. 22-24 (2003) (declining to support duplicative services).

<sup>40</sup> See, e.g., E-Rate Provider Services Comments at 8 (“Current E-Rate program rules contain a prohibition on duplicative services, which, if applied to Wi-Fi on school buses, would create difficulties for school districts in remote locations. For example, provider one may cover the eastern half of a district, and provider two may cover the western half. The ability to change from provider one to provider two automatically, while the bus is in motion, is essential to providing uninterrupted service.”); E-Rate Central Comments at 2. As we gather additional data in future funding years about the use of multiple service providers to serve an applicant’s school buses’ wireless service needs, we may revisit this determination.

<sup>41</sup> 47 CFR § 54.511(a).

<sup>42</sup> See, e.g., Los Angeles USD Comments at 1 (opining that “all equipment and services required to make the broadband service functional and available to users riding on a school bus” should be eligible); E-Rate Central Comments at 2, 4 (opining that Wi-Fi equipment and services for school buses should be considered Category One eligible); Kajeet Comments at 2 (opining that equipment “necessary to facilitate Wi-Fi on school buses . . . should be eligible as a Category One service.”); Lea Bogle Comments at 1; SHLB Comments at 7; SECA *Ex Parte* at 1-2; SECA Comments at 4; T-Mobile Comments at 2. For purposes of this Order, a school-owned, leased or contracted school bus is one that a school or the school’s district or state owns, leases or contracts for to provide transportation to students.

<sup>43</sup> SECA *Ex Parte* at 1-2.

<sup>44</sup> SECA Comments at 11-13.

<sup>45</sup> 47 CFR § 54.516(a).

<sup>46</sup> 47 CFR § 54.513.

Commission's recordkeeping and auditing rules.<sup>47</sup> These requirements apply to equipment and services on school-owned, as well as, leased or contracted school buses.

12. We find that making school bus Wi-Fi connections available to further students' educational needs must be balanced against the potential misuse of the connections for wasteful or improper purposes. Accordingly, we permit applicants to enable E-Rate-funded school bus Wi-Fi connections during a school bus's normal operating hours (i.e., when students are being transported to and from school or school-related activities) or when there is a clear educational purpose for enabling school bus Wi-Fi connections outside of these hours.<sup>48</sup> We also require that applicants disable school bus E-Rate-funded Wi-Fi connections outside of these permitted uses. We find that our departure from our traditional E-Rate community use standards<sup>49</sup> is justified in the school bus context given the increased potential for the use of school buses for private events, including for-profit events, that serve no role in closing the Homework Gap or in furthering students' education. While we decline to adopt a general community use provision in today's order and require that school bus Wi-Fi connections be disabled outside of permissible educational purposes, we will monitor the implementation of the Wi-Fi on school buses, and may revisit this determination in the future.<sup>50</sup>

13. Applicants will not be required to compare costs between a given service plan for providing school bus Wi-Fi and other technological approaches to deliver connectivity to end user devices at a school, thus adopting our tentative conclusion in *Funding Year 2024 Eligible Services List Supplemental Public Notice*.<sup>51</sup> No commenter objected to this action. Other than as described above,<sup>52</sup> funding for Wi-Fi on school buses remains subject to all existing E-Rate rules and requirements, including those related to competitive bidding,<sup>53</sup> cost allocation,<sup>54</sup> and discounting<sup>55</sup> rules.

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<sup>47</sup> 47 CFR § 54.516.

<sup>48</sup> As illustrative and non-exhaustive examples, we find that a clear educational purpose would typically exist for enabling Wi-Fi outside of a school bus's normal operating hours when a school uses the Wi-Fi connections to allow parents to participate in virtual parent-teacher conferences or when a school bus is used to provide Internet service to students in the face of an unexpected network outage that would impact students' ability to complete school homework assignments. *See, e.g.*, SHLB Comments at 10 (proposing, in part, that Wi-Fi access be limited to times that "the school bus is actively transporting students" and "cases where parents . . . reasonably require access to the Internet" and noting that "because a school bus is mobile" it can be used to provide access "at a location other than on school grounds").

<sup>49</sup> *See, e.g., Schools and Libraries Universal Service Support Mechanism*, Sixth Report and Order, WC Docket No. 02-6, 25 FCC Rcd 18762, 18775-77, paras. 24-27 (2010) (describing general E-Rate community use standards).

<sup>50</sup> We acknowledge the views of commenters who advocate for community use, either directly or by opining that use limitation for school bus Wi-Fi connections should be consistent with the E-Rate program's community use standards. *See, e.g.*, SECA Comments at 4; T-Mobile Comments at 6; Kajeet Comments at 3; SHLB Comments at 10-11. We also acknowledge SHLB's views that disabling school bus Wi-Fi equipment could affect its ability to operate properly, including because the equipment may not receive software updates or patches. SHLB Comments at 12. As described above, we will continue to monitor the implementation of the Wi-Fi on school buses for these and other related issues.

<sup>51</sup> *Funding Year 2024 Eligible Services List Supplemental Public Notice* at 2-3.

<sup>52</sup> *See, e.g., supra* at paras. 10 (clarifying the requirements if multiple providers are needed for a school bus route); 12 (declining to adopt general E-Rate community use standards).

<sup>53</sup> To ensure the prudent use of E-Rate funds, we decline to exempt applicants from this requirement who previously entered into multi-year service contracts under the Emergency Connectivity Fund (ECF) program as those contracts were not subject to E-Rate's usual competitive bidding requirements. E-Rate Central Comments at 6. While participants in some cases were subject to state or local competitive bidding requirements, we decline to adopt those requirements as a substitute for our own. Consistent with existing E-Rate rules, we require applicants to consider equivalent options when seeking bids. *See SECA Ex Parte* at 2; E-Rate Central Comments at 5; NCTA Nov. 30, 2023, Comments at 3. We also decline to extend the existing exemption for certain low-cost, high-speed Internet

(continued....)

14. Commenters raise a number of requests related to administrative and related-processes for requesting support for Wi-Fi on school buses, which are better suited for USAC to address as the program administrator.<sup>56</sup> For administrative efficiency, USAC will issue further guidance and training on these administrative issues, including application and funding request requirements, submitting forms, and other related issues, at the direction of the Bureau.

15. We also remind parties that the eligible services list proceeding “is limited to determining what services are eligible under the Commission’s current rules and is generally not intended to be a vehicle for changing any eligibility rules.”<sup>57</sup> Accordingly, we decline to address requests that we reclassify Wi-Fi on school and library campuses from a Category Two to a Category One service and that we treat routing and switching equipment that enables Category One broadband service as Category One equipment.<sup>58</sup> Similarly, we decline to address requests that we add advanced or next-generation firewall

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access services, otherwise known as Commercially Available Business class Internet Option (CABIO) services, to school buses, as that exemption only applies to funding for services delivered to a school or library building. *See Modernizing the E-Rate Program for Schools and Libraries*, WC Docket No. 13-184, Report and Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd 8870, 8948-50, paras. 199-202 (2014) (*First 2014 E-Rate Order*); *but see, e.g.*, SECA Comments at 9 (requesting that the Commission extend the CABIO exemption for a school or library building to every school bus); SHLB Comments at 11.

<sup>54</sup> Consistent with our program rules, ineligible components are subject to existing E-Rate cost allocation rules, and must be cost-allocated from the request. 47 CFR § 54.504(e) (providing that a request for discounts for a product or service that includes both eligible and ineligible components must allocate the cost of the contract to eligible and ineligible components). Ancillary ineligible components need not be cost-allocated. 47 CFR § 54.504(e)(2) (providing that an ineligible functionality may be considered “ancillary” if (1) a price for the ineligible component that is separate and independent from the price of the eligible components cannot be determined, and (2) the specific package remains the most cost-effective means of receiving the eligible services, without regard to the value of the ineligible functionality); *see also Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Third Report and Order and Second Further Notice of Proposed Rulemaking, 18 FCC Rcd 26912, 21927-28, paras. 36-39 (2003).

<sup>55</sup> Services may be reimbursed for all twelve months of the funding year with no discount or premium during the summer months. *See SHLB Ex Parte* at 2 (asking whether a discount will apply during the summer months); Kajeet Comments at 3. We recognize that there may be months with lower usage due to bus outages or vacations and we will not require a minimum usage per month. *See SECA Comments* at 13-14. However, applicants may not warehouse equipment or fail to turn on the service for student use during the twelve months. These actions would be subject to recovery of funds. In addition, portable school bus Wi-Fi equipment is only eligible when used on a school bus for educational purposes (e.g., transporting students to and from school and school-related activities). *See also supra* para. 12 (providing for use of E-Rate-funded school bus Wi-Fi connections for educational purposes outside of the school bus’s operating hours).

<sup>56</sup> *See e.g.*, SECA *Ex Parte* at 1-2 (raising questions related to bidding processes, forms, and drop-down options on FCC Form 470 and opining that each bus that has E-Rate funded Wi-Fi equipment and service should not be required to obtain a separate entity number); SECA Comments at 13-14 (making suggestions regarding billed entity numbers, tracking of inventory, and the application process).

<sup>57</sup> *See, e.g., Comment Sought on Draft Eligible Services List for Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Public Notice, 24 FCC Rcd 7422, 7423 (WCB 2009); *Wireline Competition Bureau Seeks Comment on Draft Eligible Services List for Schools and Libraries Universal Service Program*, CC Docket No. 02-6, Public Notice, 26 FCC Rcd 8714, 8718 (WCB 2011); *Schools and Libraries Universal Service Support Mechanism, A National Broadband Plan for our Future*, CC Docket No. 02-6, Order, 28 FCC Rcd 14583, 14588, para. 13 & n.37 (WCB 2013).

<sup>58</sup> *See NCTA Oct. 12, 2023, Comments*. We note that the Commission previously declined to make Wi-Fi a Category One service in the *First 2014 E-Rate Order*. *See 2014 First E-Rate Order*, 29 FCC Rcd at 8919, para. 126 (“We disagree with commenters who argue that managed Wi-Fi should be a category one service. Despite our recognition that virtualization and management may send some amount of information beyond the walls of the school or library building in order to manage the internal networks, we find that services used to distribute

(continued....)

and/or other network security services to the funding year 2024 eligible services list, and that we work with federal partners to address and prevent cyberattacks against K-12 schools and libraries, as outside the scope of this proceeding.<sup>59</sup> While we decline to address these requests here, we note that the Commission is seeking public comment regarding the eligibility of additional network security services, including advanced or next-generation firewalls and services, as part of the Commission's proposed Schools and Libraries Cybersecurity Pilot Program proceeding.<sup>60</sup>

### III. ORDERING CLAUSES

16. ACCORDINGLY, IT IS ORDERED, that pursuant to the authority contained in sections 1 through 4, 254, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154, 254, 303(r), and 403, sections 0.91 and 54.502 of the Commission's rules, 47 CFR §§ 0.91 and 54.502, this Order IS ADOPTED.

17. IT IS FURTHER ORDERED, that pursuant to the authority contained in sections 1 through 4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and pursuant to the authority in section 1.3 of the Commission's rules, 47 CFR § 1.3, that section 54.502(e), 47 CFR § 54.502(e), IS WAIVED and such waiver SHALL BECOME EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Trent B. Harkrader  
Chief  
Wireline Competition Bureau

(Continued from previous page) \_\_\_\_\_  
bandwidth throughout the school are internal connections services.”). We also further note that the FY 2024 Eligible Services List already provides that network equipment with mixed eligibility is eligible as Category One equipment and decline to provide further clarification as requested. *See* Appendix B at 18.

<sup>59</sup> ITI and The Cybersecurity Coalition Oct. 25, 2023 Comments; Tyler Moore Oct. 26, 2023 Comments.

<sup>60</sup> *Schools and Libraries Cybersecurity Pilot Program*, WC Docket No. 23-234, Notice of Proposed Rulemaking, FCC 23-92 (rel. Nov. 13, 2023).

**APPENDIX A****List of Commenters****Comments in Response  
to the *Funding Year 2024 Eligible Services List*  
*Public Notices*****WC Docket No. 13-184****Commenters responsive to 2024 Eligible Services List Public Notice**

1. NCTA – The Internet & Television Association  
(NCTA Oct. 12, 2023, Comments)

**Reply Commenters responsive to 2024 Eligible Services List Public Notice**

1. Information Technology Industry Council jointly with The Cybersecurity Coalition  
(ITI/Coalition Reply)
2. Tyler Moore  
(Tyler Moore Reply)

**Commenters responsive to 2024 Eligible Services List Supplemental Public Notice**

1. Advocates for the EMS Disabled  
(Advocates for the EMS Disabled Comments)
2. Branson R. Rasko  
(Branson Rasko Comments)
3. E-Rate Central (as the New York State E-Rate Coordinator)  
(E-Rate Central Comments)
4. E-Rate Provider Services  
(E-Rate Provider Services Comments)
5. Fresno Unified School District  
(Fresno Comments)
6. Kajeet  
(Kajeet Comments)
7. Katherine Katzin  
(Katherine Katzin Comments)
8. KB & Associates  
(KB & Associates Comments)
9. Lea Bogle, Premier Wireless Business Technology Solutions, Inc.  
(Lea Bogle Comments)
10. Los Angeles Unified School District  
(Los Angeles USD Comments)
11. NCTA – The Internet & Television Association  
(NCTA Nov. 30, 2023, Comments)
12. Robert Frisby  
(Robert Frisby Comments)
13. Rollins & Sumrall Education Group, Inc.  
(REGroup Comments)
14. Schools, Health & Libraries Broadband Coalition  
(SHLB Comments)
15. State E-rate Coordinators' Alliance  
(SECA Comments)

16. T-Mobile USA, Inc.  
(T-Mobile Comments)
17. Wisconsin Department of Public Instruction  
(Wisconsin DPI Comments)
18. Verizon  
(Verizon Comments)

**Ex Parte Commenters responsive to 2024 Eligible Services List Supplemental Public Notice**

1. Schools, Health & Libraries Broadband Coalition  
(SHLB *Ex Parte*)
2. State E-rate Coordinators' Alliance  
(SECA *Ex Parte*)
3. T-Mobile USA, Inc.  
(T-Mobile *Ex Parte*)

**APPENDIX B****Eligible Services List for Funding Year 2024  
Schools and Libraries Universal Service Support Mechanism****WC Docket No. 13-184**

The Federal Communications Commission's (FCC) rules provide that all services that are eligible to receive discounts under the Schools and Libraries Universal Service Support Mechanism (otherwise known as the E-Rate program or E-Rate) are listed in this Eligible Services List (ESL). 47 CFR § 54.502(a). The E-Rate program is administered by the Universal Service Administrative Company (USAC). 47 CFR § 54.5. Eligible schools and libraries may seek E-Rate support for eligible Category One telecommunications services, telecommunications, and Internet access, and Category Two internal connections, basic maintenance, and managed internal broadband services as identified herein. 47 CFR §§ 54.500 *et seq.*

Additional guidance from USAC about the E-Rate application process and about eligible services, including a glossary of terms, is available at USAC's website at <https://www.usac.org/erate/applicantprocess/before-you-begin/eligible-services-list/>. The documents on USAC's website are not incorporated by reference into the ESL and do not bind the Commission. Thus, they will not be used to determine whether a service or product is eligible. Applicants and service providers may refer to those documents, but they should do so only for informal guidance. This ESL applies to funding requests for Funding Year (FY) 2024.

**Category One**

The first category of supported services, Category One, includes the services needed to support broadband connectivity to schools and libraries. Eligible Category One services are listed in the entries for data transmission and/or Internet access. This category consists of the services that provide broadband to eligible locations including data links that connect multiple points, services used to connect eligible locations to the Internet, and services that provide basic conduit access to the Internet. With the exception of leased dark fiber and self-provisioned broadband networks, maintenance and technical support appropriate to maintain reliable operation are only eligible for support when provided as a component of these services.

### Data Transmission and/or Internet Access

Data transmission and/or Internet access services are eligible in Category One. These services include:

- Asynchronous Transfer Mode (ATM)
- Broadband over Power Lines
- Cable Modem
- Digital Subscriber Line (DSL)
- DS-1 (T-1), DS-3 (T-3), and Fractional T-1 or T-3
- Ethernet
- Integrated Services Digital Network (ISDN)

*Note:* Dedicated voice channels on an ISDN circuit are no longer eligible.

- Leased Lit Fiber
- Leased Dark Fiber (including dark fiber indefeasible rights of use (IRUs) for a set term)
- Self-Provisioned Broadband Networks (applicant owned and operated networks)
- Frame Relay
- Multi-Protocol Label Switching (MPLS)
- OC-1, OC-3, OC-12, OC-n
- Satellite
- Switched Multimegabit Data Service
- Telephone dial-up
- Wireless (e.g., fixed wireless; microwave; or mobile service for use on school buses)

*Notes:*

- (1) Eligible costs include monthly charges, special construction, installation and activation charges, software, modulating electronics and other equipment necessary to make a Category One wired or wireless broadband service functional (“Network Equipment”), and maintenance and operation charges, including costs for software needed for the operation of or maintenance of Network Equipment. Network Equipment and maintenance and operation costs for existing networks are eligible. All equipment and services, including maintenance and operation, must be competitively bid.
- (2) Applicants that seek bids for leased dark fiber must also seek bids for leased lit fiber service and fully consider all responsive bids. Similarly, applicants that seek bids for self-provisioned broadband networks must also seek bids for the needed connectivity via services provided over third-party networks, and fully consider all responsive bids.
- (3) Applicants may seek special construction funding for the upfront, non-recurring costs for the deployment of new or upgraded facilities. The eligible components of special construction are construction of network facilities, design and engineering, and project management.
- (4) Staff salaries and labor costs for personnel of the applicant or underlying beneficiary are not E-Rate eligible.
- (5) Consulting services that are not related to the installation and configuration of the eligible components are not eligible. These include services related to application assistance, program advice, and other activities not tied directly to actual installation and initial configuration of components.

## Category Two

The second category of equipment and services eligible for E-Rate support, Category Two, includes the internal connections needed for broadband connectivity within schools and libraries. Support is limited to the internal connections necessary to bring broadband into, and provide it throughout, schools and libraries. These are broadband connections used for educational purposes within, between, or among instructional buildings that comprise a school campus (as defined below in the section titled “Eligibility Explanations for Certain Category One and Category Two Services”) or library branch, and basic maintenance of these connections, as well as services that manage and operate owned or leased broadband internal connections (e.g., managed internal broadband services or managed Wi-Fi). Category Two support is subject to district- or library system-wide budgets as set forth in 47 CFR § 54.502. The eligible components and services in Category Two are:

### Eligible Broadband Internal Connections

- Antennas, connectors, and related components used for internal broadband connections
- Cabling
- Caching
- Firewall services and firewall components separate from basic firewall protection provided as a standard component of a vendor’s Internet access service
- Racks
- Routers
- Switches
- Uninterruptible power supply (UPS)/battery backup
- Access points used in a local area network (LAN) or wireless local area network (WLAN) environment (such as wireless access points)
- Wireless controller systems
- Software supporting the components on this list used to distribute high-speed broadband throughout school buildings and libraries (applicants should request software in the same category as the associated service being obtained or installed)

#### *Notes:*

- (1) Functionalities listed above that can be virtualized in the cloud, and equipment that combines eligible functionalities, like routing and switching, are also eligible.
- (2) A manufacturer’s multi-year warranty for a period up to three years that is provided as an integral part of an eligible component, without a separately identifiable cost, may be included in the cost of the component.
- (3) Caching is defined as a method that stores recently accessed information. Caching stores information locally so that the information is accessible more quickly than if transmitted across a network from a distance. A caching service or equipment that provides caching, including servers necessary for the provision of caching, is eligible for funding.
- (4) Applicants may request both equipment and the software necessary to use the equipment on the FCC Form 470, or request just the equipment on the FCC Form 470, and still receive support for both the equipment and the software necessary to use the equipment (e.g., right-to-use software or client access licenses) by requesting the equipment and software either together or separately on the FCC Form 471. However, software upgrades and patches, including bug fixes and security patches, are considered basic maintenance of internal connections, and as such, applicants should seek bids for basic maintenance of internal connections if they intend to request funding for these services.

**Eligible Managed Internal Broadband Services**

- Services provided by a third party for the operation, management, and monitoring of eligible broadband internal connections are eligible managed internal broadband services (e.g., managed Wi-Fi).
- E-Rate support is limited to eligible expenses or portions of expenses that directly support and are necessary for the broadband connectivity within schools and libraries. Eligible expenses include the management and operation of the LAN/WLAN, including installation, activation, and initial configuration of eligible components and on-site training on the use of eligible equipment.
- In some eligible managed internal broadband services models, the third-party manager owns and installs the equipment and school and library applicants lease the equipment as part of the managed services contract. In other cases, the school or library may own the equipment, but have a third party manage the equipment for it.

**Basic Maintenance of Eligible Broadband Internal Connections**

E-Rate support is available for basic maintenance and technical support appropriate to maintain reliable operation when provided for eligible broadband internal connections.

The following basic maintenance services are eligible:

- Repair and upkeep of eligible hardware.
- Wire and cable maintenance.
- Configuration changes.
- Basic technical support including online and telephone-based technical support.
- Software upgrades and patches including bug fixes and security patches.

**Eligibility Limitations for Category Two Services**

**Eligibility limitations for managed internal broadband services** – The equipment eligible for support as part of a managed internal broadband service may include only equipment listed above as broadband internal connections. Upfront charges that are part of a managed service contract are eligible for E-Rate support except to the extent that the upfront charges are for any ineligible internal connections (e.g., servers other than those that are necessary to provide caching), which, if included in the contract, must be cost allocated out of any funding request.

**Eligibility limitations for basic maintenance** – Basic maintenance is eligible for support only if it is a component of a maintenance agreement or contract for eligible broadband internal connections. The agreement or contract must specifically identify the eligible internal connections covered, including product name, model number, and location. Support for basic maintenance will be paid for the actual work performed under the agreement or contract. Support for bug fixes, security patches, and technical support is not subject to this limitation.

Basic maintenance does not include:

- Services that maintain ineligible equipment
- Upfront estimates that cover the full cost of every piece of eligible equipment
- Services that enhance the utility of equipment beyond the transport of information, or diagnostic services in excess of those necessary to maintain the equipment's ability to transport information
- Network management services, including 24-hour network monitoring
- On-site technical support (i.e., contractor duty station at the applicant site), unless applicants present sufficient evidence of cost-effectiveness
- Unbundled warranties

### Eligibility Explanations for Certain Category One and Category Two Services

**National Security Supply Chain Restrictions** – Equipment or services produced or provided by a company that the FCC has designated as a national security threat to the integrity of communications networks or the communications supply chain are not eligible for E-Rate support. 47 CFR § 54.9(a). In addition, participants are prohibited from using E-Rate support to purchase, rent, lease, or otherwise obtain any covered communications equipment or service, or maintain any covered communications equipment or service previously purchased, rented, leased, or otherwise obtained. 47 CFR § 54.10. A list of covered communications equipment and services can be found on the FCC’s website at <https://www.fcc.gov/supplychain/coveredlist> and will be updated to reflect any future determinations.

**Internet access/ISP service** – Eligible Internet access services may include features such as basic firewall protection, domain name service, and dynamic host configuration when these features are provided as a standard component of a vendor’s Internet access service. Firewall protection that is provided by a vendor other than the Internet access service provider or priced out separately will be considered a Category Two internal connections component. Examples of items that are ineligible components of Internet access services include applications, content, e-mail, and end-user devices and equipment such as computers, laptops, and tablets.

**Wireless services and wireless Internet access** – As clarified in the *2014 Second E-Rate Order* (FCC 14-189), data plans and air cards for mobile devices are eligible only in instances when the school or library seeking support demonstrates that the individual data plans are the most cost-effective option for providing internal broadband access for mobile devices at schools and libraries. Applicants should compare the cost of data plans or air cards for mobile devices to the total cost of all components necessary to deliver connectivity to the end user device, including the cost of data transmission and/or Internet access to the school or library. Seeking support for data plans or air cards for mobile devices for use in a school or library with an existing broadband connection and WLAN implicates the E-Rate program’s prohibition on requests for duplicative services.

As clarified in the *Wi-Fi on School Buses Declaratory Ruling* (FCC 23-84), the use of off-campus wireless service on a school bus serves an educational purpose and, therefore, such service to a school bus is eligible for E-Rate support. However, in general, off-campus use of E-Rate-funded services even if used for an educational purpose, is ineligible for support, and must be cost-allocated out of any funding request.

Managed internal broadband services, such as managed Wi-Fi, are eligible only for Category Two support.

**Connections between buildings of a single school** – The classification of connections between multiple buildings of a single school is determined by whether the buildings are located on the same campus. A “campus” is defined as the geographically contiguous grounds where the instructional buildings of a single eligible school are located. A single school may have multiple campuses if it has instructional buildings located on grounds that are not geographically contiguous. Different schools located on the same grounds do not comprise a single campus. The portion of the grounds occupied by the instructional buildings for each school is a campus for that school.

- Connections between buildings on different campuses of a single school are considered to be Category One data transmission services.
- Connections between different schools with campuses located on the same property (e.g., an elementary school and middle school located on the same property) are considered to be Category One data transmission services, unless they share the same building.

Connections between buildings of a single school on the same campus are considered to be Category Two internal connections.

**Network equipment with mixed eligibility** – On-premises equipment that connects to a Category Two eligible LAN is eligible for Category One support if it is necessary to make a Category One broadband service functional. If the price for components that enable the LAN can be isolated from the price of the components that enable the Category One service, those costs should be cost-allocated out of the Category One funding request.

### Miscellaneous

As described below, various miscellaneous services associated with Category One or Category Two are eligible for support. Applicants should request eligible miscellaneous services in the same category as the associated service being obtained or installed.

#### Fees

Fees and charges that are a necessary component of an eligible product or service are eligible, including:

- Change fees
- Contingency fees are eligible if they are reasonable and a regular business practice of the service provider. Contingency fees will be reimbursed only if the work is performed.
- Freight assurance fees
- Lease or rental fees on eligible equipment
- Per diem and/or travel time costs are eligible only if a contract with a vendor for the eligible product or services specifically provides for these costs
- Shipping charges
- Taxes, surcharges, and other similar, reasonable charges incurred in obtaining an eligible product or service are eligible. These types of charges include customer charges for universal service fees, but do not include additional charges for universal service administration.

#### Installation, Activation, and Initial Configuration

Installation, activation, and initial configuration of eligible components are eligible. These services may include:

- Design and engineering costs if these services are provided as an integral component of the installation of the relevant services
- Project management costs if these services are provided as an integral component of the installation of the relevant services
- On-site training is eligible as a part of installation services but only if it is basic instruction on the use of eligible equipment, directly associated with equipment installation, and is part of the contract or agreement for the equipment. Training must occur coincidentally or within a reasonable time after installation.