

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)
)
Emergency Broadband Connectivity) WC Docket No. 20-445
Fund Assistance)

COMMENTS OF EDUCATIONSUPERHIGHWAY

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EducationSuperHighway respectfully submits these comments in response to the Public Notice from the Wireline Competition Bureau requesting comments in the above-referenced proceeding.

INTRODUCTION AND SUMMARY

EducationSuperHighway appreciates that Congress and the Commission have recognized the need to address the affordability gap faced by tens of millions of households struggling to obtain or maintain a home broadband connection.¹ The pandemic has shown that home broadband connectivity is more critical than ever. Without robust Internet access at home, Americans cannot work remotely when needed, do school work from home, see their doctor through a screen, upgrade their skills for 21st-century careers, or access critical safety net services. With over 28 million unconnected households,² and millions more that have experienced a substantial loss of income due to the COVID-19 pandemic, this is both an equity and an economic issue. Fortunately, the \$3.2 billion Emergency Broadband Connectivity Fund made available by the Consolidated Appropriations Act of 2021 provides an opportunity to address this pressing issue and accelerate progress on our country’s long-held goal of universal broadband access.

In establishing the rules for the Emergency Broadband Benefit Program, the Commission must follow the intent of Congress in three important respects. First, the Commission must ensure that the program addresses the affordability gap for both those without home broadband connections and those struggling to maintain their connections due to a substantial loss of income. Second, the Commission must ensure that the program maximizes the number of households that are able to “meaningfully access and participate in remote learning during the

¹ Throughout these comments we use the term “home broadband connection” to refer to either wired broadband connections or mobile hotspots with unlimited data plans.

² American Community Survey [data](#).

COVID-19 pandemic.”³ Third, the Commission must ensure that households who utilize the Emergency Broadband Benefit to obtain a home broadband connection are able to use the Internet to survive and thrive during the pandemic by accessing employment, education, healthcare, and safety net opportunities.

To accomplish these goals, the Commission should:

1. Reserve 50% of the Emergency Broadband Connectivity Fund for those without home broadband connections.
2. Allow school districts to act as agents for unconnected K-12 households and enroll them in the Emergency Broadband Benefit Program.
3. Adopt an alternative verification process for the Emergency Broadband Benefit Program for unconnected K-12 students.
4. Establish a fixed term for the Emergency Broadband Benefit for every enrolled household.
5. Eliminate a significant barrier to adoption of the Emergency Broadband Benefit by requiring an opt-in to continue service when the benefit expires, thereby ensuring consumers don’t end up paying for a service they can’t afford.
6. Maximize opportunity and investment by focusing eligible services on those that explicitly meet the Commission’s definition of broadband, including wired broadband services and mobile hotspots with unlimited data plans and specifically excluding services delivered via mobile phones.

I. THE COMMISSION MUST RESERVE 50% OF THE EMERGENCY BROADBAND CONNECTIVITY FUND FOR THOSE WITHOUT HOME BROADBAND CONNECTIONS.

In establishing the Emergency Broadband Benefit as part of the Consolidated Appropriations Act of 2021, Congress appropriately decided to address the broadband affordability gap for both those without home broadband connections and those who are struggling to maintain their home broadband subscriptions due to a substantial loss of income related to the COVID-19 pandemic. In support of this objective, Congress created five eligibility criteria for the Emergency Broadband Benefit that make it possible for almost anyone in either of these two situations, either unconnected or struggling to maintain their connection, to qualify for the program.

Unfortunately, the amount of funding appropriated by Congress for the Emergency Broadband Connectivity Fund is unlikely to be sufficient to meet the demand for the program.

³ FCC Public Notice WC Docket No. 20-445, January 4, 2021, page 9.

There are currently 8.2 million Lifeline subscribers, 29.4 million students (in approximately 23 million households) on the national free and reduced lunch program, over 8 million students who receive Pell grants, over 5 million households on affordable broadband plans from Internet Service Providers (ISPs), and in excess of 10 million households that have suffered a substantial loss of income due to the pandemic.⁴ Even accounting for some overlap amongst these categories, there are likely well in excess of 30 million households eligible for the Emergency Broadband Benefit — a figure that is consistent with the 33.2 million households eligible for the Lifeline program.⁵ This level of demand will quickly exhaust the Emergency Broadband Connectivity Fund, which, at \$50 per household per month, only has sufficient resources to support 10.6 million households for even a six month period.

Given the likely oversubscription of the Emergency Broadband Benefit, the Commission must take steps to ensure that both households without home broadband connections and those struggling to maintain their home broadband subscriptions are able to access the benefit. In addition, because households who already have a home broadband subscription will have a significantly easier path to receiving the Emergency Broadband Benefit, the Commission must take action to ensure that the Emergency Broadband Connectivity Fund is not exhausted before households without home broadband connections can learn about the program, verify their eligibility, sign up for a home broadband service and have their service activated.

The provider-centric design of the Emergency Broadband Benefit Program puts those without an existing home broadband connection at a significant disadvantage in accessing the Emergency Broadband Benefit. ISPs will naturally start by enrolling the subscribers with whom they already have a relationship. They know how to reach them, they know which households qualify for the Emergency Broadband Benefit if they are part of the Lifeline program or their existing affordable broadband programs, and they do not have to do anything to activate service. In contrast, to enroll a household that does not have a home broadband connection, ISPs have to conduct extensive marketing campaigns to find them, complete time-consuming eligibility verification processes, convince them to sign a subscription agreement, and then activate service. Given that service providers will be competing to access a limited amount of funding, market forces will naturally cause them to focus first on their existing subscribers.

Between Lifeline subscribers, those on affordable broadband plans, and those who have suffered a substantial reduction of income due to the pandemic, there are well in excess of 10 million households that already subscribe to a home broadband service and are eligible for the Emergency Broadband Benefit Program. Consequently, the aforementioned market forces will likely result in the Emergency Broadband Benefit Fund being exhausted before a significant number of unconnected households are able to access the benefit. As a result, **the Commission**

⁴ Universal Service Administrative Company's Lifeline [data](#); USDA National School Lunch Program [data](#); NCES Pell [data](#); NCTA industry [data](#); Bureau of Labor Statistics [data](#).

⁵ USAC's Lifeline [data](#).

must set aside 50% of the Emergency Broadband Connectivity Fund for households that do not currently have a home broadband connection. Doing so will give the 28.2 million households without a home broadband connection an equal chance at using the Program to obtain Internet access for their families and will allow the Commission to ensure that they meet Congress’ direction to address the affordability gap for those with and without home broadband connections.⁶

II. THE COMMISSION SHOULD ALLOW SCHOOL DISTRICTS TO ACT AS AGENTS FOR UNCONNECTED K-12 HOUSEHOLDS AND ENROLL THEM IN THE EMERGENCY BROADBAND BENEFIT PROGRAM

At the start of the COVID-19 pandemic, 10-15 million students were without a home broadband connection.⁷ States and school districts quickly realized that unconnected households faced many barriers to obtaining the Internet connections their K-12 students needed. These included: (i) difficulty finding information about affordable broadband options; (ii) challenges navigating the complex sign-up procedures required to access these programs, especially for non-English speakers; (iii) a lack of required documentation such as social security numbers; and (iv) financial obstacles, including poor credit ratings and bad debt with service providers. As a result, school districts and states often realized that the only way to provide a significant number of unconnected students with the Internet access they needed to participate in remote learning was to take responsibility for aggregating and procuring broadband connections for these households.

In response to demand from school districts, service providers began offering “sponsored service” programs where states, municipalities, or school districts could purchase home broadband connections for K-12 households.⁸ These sponsored service programs removed many of the information, process, documentation, and financial obstacles faced by unconnected households and were adopted by hundreds of school districts around the country. As a result, approximately three million K-12 students were connected to home broadband in just over six months.⁹

The Emergency Broadband Benefit Program provides an opportunity to meaningfully expand the number of school districts that participate in these sponsored service programs. While hundreds of school districts have leveraged these programs, hundreds, if not thousands, more have not participated due to a lack of available funding to pay for students’ home broadband connections. With over 80 ISPs, covering nearly 90% of K-12 households, launching

⁶ American Community Survey [data](#).

⁷ [Analysis](#) conducted by EducationSuperHighway, Common Sense Media, Alliance for Education, Funds for Learning.

⁸ EducationSuperHighway’s [overview](#) of sponsored service.

⁹ EducationSuperHighway’s December 2020 [report](#), page 15.

sponsored service programs as part of EducationSuperHighway’s K-12 Bridge to Broadband initiative, these programs are now available to the vast majority of school districts nationwide and have successfully identified and qualified program participants. Enabling school districts to build upon these successful sponsored service programs by allowing them to rapidly identify and help qualify K-12 household eligibility for ISPs for purposes of the Emergency Broadband Benefit will eliminate the final obstacle to enabling widespread K-12 participation.

To maximize the number of K-12 households that are connected by the Emergency Broadband Benefit Program, the Commission must build on what has been shown to work to connect K-12 households rather than reverting to a policy that requires unconnected families to overcome myriad obstacles to obtain a home broadband connection. Specifically, the Commission should allow school districts to act as agents to enroll unconnected K-12 households in the Emergency Broadband Benefit Program by authorizing them, as Congress intended, to provide service providers with eligibility verifications for K-12 households. In addition, the Commission should capitalize on the effectiveness of sponsored service programs in connecting K-12 families by allowing school districts to negotiate with and select the most cost-effective service provider option for meeting their eligible household’s digital learning needs.

III. THE COMMISSION MUST ADOPT AN ALTERNATIVE VERIFICATION PROCESS FOR UNCONNECTED K-12 STUDENTS.

The Commission faces three critical challenges in implementing program rules that comply with Congress’s direction that households with students on the free and reduced lunch program are eligible for the Emergency Broadband Benefit and that schools should be empowered to verify the eligibility of these households. First, the National Verifier does not have any data on which households participate in the free and reduced lunch program and does not have any links into state student information systems that could provide this information. Second, the National Verifier requires applicants to have a social security number, and leverages this as part of its duplicate benefit matching criteria, whereas the free and reduced lunch program allows families to participate in the program without a social security number. Third, and perhaps most importantly, school districts are prohibited by both federal and, in many cases, state law from disclosing information on which students or households are enrolled in the free and reduced lunch program.¹⁰

Given these challenges, and given the previously discussed challenges that make it extremely difficult for unconnected families to sign themselves up for the Emergency Broadband Benefit in a timely manner, the Commission must adopt an alternative eligibility verification

¹⁰ NCES [overview](#) of federal laws preventing household data disclosure; [California state law](#) preventing disclosure of students receiving free and reduced lunch.

process for households that qualify for the Emergency Broadband Benefit because they have one or more students on the free and reduced lunch program. In designing this alternative process, the Commission should bifurcate between eligible households that already have home broadband and those that are unconnected.

For households that already have a home broadband connection and are eligible for the Emergency Broadband Benefit because they have a student on the free and reduced lunch program, the Commission should rely on provider outreach to inform these households of the Emergency Broadband Benefit and validate their eligibility. In many cases, service providers will be able to quickly verify eligibility because these households are Lifeline subscribers or part of their affordable broadband program that the Commission is likely to approve as an alternative eligibility verification method. In the event that an eligible household is on a standard, commercially available non-affordable plan, the Commission can rely on service providers to do outreach to their customers to inform them of the benefit and support them through the process of providing the information they need to confirm their eligibility.

For eligible households that are currently unconnected, two important considerations enable the design of an alternative eligibility verification process that meets the statute's objectives while limiting the chance of any waste, fraud, or abuse. First, the Commission can rely on the fact that the overwhelming majority of unconnected households with a K-12 student are eligible for the free and reduced lunch program. In Wisconsin, 81% of students without home broadband, whose homes could be served by existing broadband infrastructure¹¹ across urban, suburban, small-town, and rural geographies were on the free and reduced lunch program. In West Contra Costa Unified School District, a suburban California district, over 90% of unconnected students were on the free and reduced lunch program. And in Atlanta Public Schools, 100% of students without home broadband were on the free and reduced lunch program.¹²

Second, the Commission can rely on the precedent set by the Community Eligibility Provision in the free and reduced lunch program, which allows schools to provide free breakfast and lunch to students that do not individually qualify for the free and reduced lunch program when at least 40% of students in a school directly qualify for the free and reduced lunch program. **Specifically, given that the vast majority of unconnected students are also eligible for the free and reduced lunch program, the Commission should extend the community eligibility framework to allow schools to verify that students are eligible for the Emergency Broadband Benefit by verifying that they do not have a home broadband connection.** This will enable the Commission to conform to Congress's direction that households with students on the free and reduced lunch program are eligible for the Emergency Broadband Benefit without

¹¹ i.e. broadband infrastructure was available to the household and they could have subscribed to a commercially available home broadband service.

¹² Data collected through EducationSuperHighway outreach in January 2021.

undermining student privacy by requiring school districts to disclose a households' free and reduced lunch program enrollment status.¹³ It will also limit any potential waste, fraud, or abuse in the Emergency Broadband Benefit program because of the extremely high correlation between unconnected students and their participation in the free and reduced lunch program. Waste, fraud and abuse can be further combated by limiting the number of students that a school district can verify as eligible for the Emergency Broadband Benefit because they are unconnected to the total number of students in any given school that are on the free and reduced lunch program - data that USAC already collects annually as part of its administration of the E-rate program.¹⁴

Enabling school districts to verify eligibility for the Emergency Broadband Benefit by verifying that a household does not have a home broadband connection will significantly accelerate the deployment of the Emergency Broadband Benefit for unconnected K-12 households. Spurred by the closing of schools due to the COVID-19 pandemic, school districts have invested significant time and effort over the last ten months to identify which of their students are unconnected, and most already have lists of many of these households. In addition, over twenty states have worked with their student information systems vendors to add fields that track whether a student has home Internet access, making it easy for districts to track the unconnected and gather additional information from families during school registration this spring. Finally, the launch of the K-12 Bridge to Broadband public-private partnership between ISPs and EducationSuperHighway, modeled after successful efforts in Chicago and North Dakota, gives states and school districts a tool to rapidly identify their unconnected students by exchanging anonymized address data with ISPs under NDA. The program currently has ISP participation covering nearly 90% of households in the United States, and data exchanges can be accomplished in as little as two weeks. Together, these measures will enable school districts to rapidly provide Emergency Broadband Benefit eligibility verification to ISPs for unconnected students.

EducationSuperHighway proposes that the Commission adopt the following alternative eligibility verification process for households with K-12 students that do not have a home broadband connection:

1. Using data from the E-rate program, USAC calculates the number of students on the free and reduced lunch program in each school.¹⁵ School districts are permitted to verify the eligibility of up to this number of students from the school for the Emergency Broadband Benefit by verifying that they do not have home broadband.

¹³ See Footnote 11.

¹⁴ The Community Eligibility Provision's threshold of 40% students eligible for free and reduced lunch is much lower than the estimated 80% correlation of students eligible for FRL and unconnected.

¹⁵ FCC's E-rate Modernization Order, "Modifying the Requirement for Using School-Wide Income Surveys" (Order ¶¶ 230-231), FCC's summary [here](#).

2. School districts, or states acting on their behalf, verify that a household does not have home broadband using one of the following methods:
 - a. The school district exchanges address data with local service providers under NDA, either directly or through a 3rd party, to identify unconnected students and the service providers that can serve them. This is the most rigorous method and has been successfully proven by the K-12 Bridge to Broadband initiative.
 - b. The school district documents that it has received a survey response from a household stating that it does not have a home broadband connection.
 - c. The school district documents that it has received information as part of its school registration process from a household stating that it does not have a home broadband connection.
3. School districts, or states acting on their behalf, identify which service provider has the best available service offering for each unconnected household and provides the selected service provider with an eligibility verification for that household.
4. The service provider, or their agent, checks the NLAD to ensure the household is not already receiving the Emergency Broadband Benefit and, if not, inserts the household and the name of the school the household received its eligibility verification from into the NLAD. This allows USAC to monitor whether a school has exceeded its allowable eligibility verifications -- limiting the chance of waste, fraud, or abuse.
5. Service providers and school districts then partner to activate service for the eligible household. If they are unable to activate service, the service provider removes the household from the NLAD.

To maximize the number of unconnected households that are enrolled in the Emergency Broadband Benefit using this alternative verification process for families with students enrolled in the free and reduced lunch program, the Commission should provide service providers that utilize this process with a safe harbor from financial or other penalties that might otherwise be incurred if an audit identifies that a household that received the Emergency Broadband Benefit under this alternative verification process is not eligible for the free and reduced lunch program.

IV. THE COMMISSION SHOULD ESTABLISH A FIXED TERM FOR THE EMERGENCY BROADBAND BENEFIT FOR EVERY ENROLLED HOUSEHOLD.

In its Public Notice, the Commission recognized the importance of publicizing the Emergency Broadband Benefit Program. To maximize the effectiveness of these promotional efforts, the Commission should enable service providers and other entities that promote the Emergency Broadband Benefit Program to clearly communicate the length of the Emergency

Broadband Benefit that will be received by eligible households. Failing to fully inform consumers will create confusion amongst eligible households and discourage those without home broadband service to enroll in the program as they will have no clarity on how long the benefit will last and if it is worth the effort to enroll. It will also create significant challenges for service providers in their efforts to clearly explain the program benefits to beneficiaries.

EducationSuperHighway suggests that the Commission address this issue by either establishing March 31, 2022, as a standard end date for the program or committing to 12 months of service for each household that enrolls in the program. In either case, this will allow service providers and others to clearly communicate the duration of the Emergency Broadband Benefit to potential beneficiaries. As households enroll in the program, USAC would simply calculate the cost of providing the household the monthly reimbursement the service provider has applied for multiplied by the standard duration of the benefit. USAC would then keep track of the total committed funds and cut off additional enrollments once the Emergency Broadband Fund has been fully committed. To ensure that service providers continue to promote the program, USAC should publish the amount of uncommitted funds remaining on a bi-weekly basis. The Commission can elect to either reopen enrollment in the program or extend the duration of the program for existing beneficiaries if USAC's projections suggest that the program has additional funding due to early terminations by participants.

V. THE COMMISSION SHOULD ELIMINATE A SIGNIFICANT BARRIER TO ADOPTION OF THE EMERGENCY BROADBAND BENEFIT BY REQUIRING AN OPT-IN TO CONTINUE SERVICE WHEN THE BENEFIT EXPIRES, THEREBY ENSURING CONSUMERS DON'T END UP PAYING FOR A SERVICE THEY CANT AFFORD

During the COVID-19 pandemic, many municipalities and school districts have offered to provide free broadband service to unconnected households. Unfortunately, the take rates for these offers have been disappointingly low. Research by EducationSuperHighway and others has revealed that the single biggest reason families decline free broadband service is the fear that they will ultimately be stuck with a bill.

Adoption of the Emergency Broadband Benefit is likely to suffer from the same challenge if the Commission does not take steps to minimize households' concerns that they will end up obligated to pay for a service they cannot afford. Consequently, the Commission should require that all service providers agree to terminate service at the end of the Emergency Broadband Benefit for any household that is a new subscriber of the service provider under the program unless the household affirmatively agrees to continue service. The Commission should also require that service providers clearly communicate to new subscribing households that they must opt-in to continuing service at the end of the Emergency Broadband Benefit prior to

enrolling a new subscriber.

To make this opt-in requirement economically feasible for service providers, the Commission should allow service providers to request reimbursement for the cost of the customer premise equipment (a modem or wireless hotspot) that they must provide the household in order to deliver service.¹⁶ This will also enable service providers to reduce barriers to enrollment by minimizing the amount of information they need to collect from subscribers as they will no longer be concerned about recovering their customer premise equipment at the end of the Emergency Broadband Benefit service agreement. Such reimbursement should be limited to the cost of the CPE to the provider, not the retail price of the CPE charged by service providers.

VI. THE COMMISSION SHOULD MAXIMIZE OPPORTUNITY AND INVESTMENT BY FOCUSING ELIGIBLE SERVICES ON THOSE THAT EXPLICITLY MEET THE COMMISSION'S DEFINITION OF BROADBAND, INCLUDING WIRED BROADBAND SERVICES AND MOBILE HOTSPOTS WITH UNLIMITED DATA PLANS AND SPECIFICALLY EXCLUDING SERVICES DELIVERED VIA MOBILE PHONES.

As the Commission concluded in its Public Notice, “the Emergency Broadband Benefit Program is, in part, designed to ensure that program beneficiaries are able to meaningfully access and participate in remote learning during the COVID-19 pandemic.”¹⁷ In the course of our Digital Bridge K-12 initiative in partnership with the Council of Chief State School Officers, EducationSuperHighway has collected feedback from school districts and state departments of education that make it clear that the speed of a broadband connection and the amount of data that is available to students significantly impacts their ability to participate in remote learning. Specifically, school districts have reported that a 25/3 connection appears to be the minimum wireline speed to enable consistent participation in remote learning and that even this is insufficient when more than two students try to participate in remote learning over a single connection. In addition, for students who are connecting via a wireless hotspot, school districts utilizing synchronous video conferencing applications such as Zoom or Microsoft Teams as part of their instructional model have required service providers to provide students with data plans with no data caps or throttling in order to ensure that students can fully participate throughout the entire month.¹⁸

Given this feedback, the Commission should ensure eligible services under the

¹⁶ Reimbursement via a rental model is likely infeasible as these are typically two year programs and the Emergency Broadband Benefit is likely to last 12 months or less.

¹⁷ FCC Public Notice WC Docket No. 20-445, January 4, 2021, page 9.

¹⁸ “ISPs Raise Speeds and Suspend Data Caps in Response to the Coronavirus Pandemic,” [Consumer Reports](#), March 2020.

Emergency Broadband Benefit Program are either wireline services that meet the Commission's definition of broadband (currently 25/3) or LTE or 5G wireless hotspot data plans that have no data caps and do not throttle speeds after a certain amount of data has been used in a month. The Commission should also specifically exclude services delivered via mobile phones (as opposed to a dedicated wireless hotspot device) as these devices are not capable of delivering speeds and latency approaching the Commission's definition of broadband.¹⁹

CONCLUSION

For the reasons discussed above, the Commission should establish rules for the Emergency Broadband Benefit Program that ensure that a substantial number of unconnected households are connected to home broadband, maximizes the number of households that are able to participate effectively in remote learning, and provides home broadband connections that allow program participants to access employment, education, healthcare, and safety net opportunities.

Respectfully submitted,

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¹⁹ For example, AT&T's [description](#) of differences between wireless hotspot and mobile phone tethering; T-Mobile's 5G mobile hotspot plan [data plan](#).