

FISH & RICHARDSON P.C.

1425 K STREET, N.W.
11TH FLOOR
WASHINGTON, DC 20005

Telephone
202 783-5070

Facsimile
202 783-2331

Web Site
www.fr.com

Edwin N. Lavergne
(202) 626-6359
lavergne@fr.com

Frederick P. Fish
1855-1930

W.K. Richardson
1859-1951

February 26, 2014

VIA ELECTRONIC FILING

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554



ATLANTA

AUSTIN

BOSTON

DALLAS

DELAWARE

MUNICH

NEW YORK

SAN DIEGO

SILICON VALLEY

TWIN CITIES

WASHINGTON, DC

Re: **Ex Parte Communication (WC Docket No. 13-184)**
Modernizing the E-rate Program for Schools and Libraries

Dear Ms. Dortch:

On February 25, 2014, the following members of the E-rate Reform Coalition (“Coalition”) met with Jon Wilkins, Michael Steffen, Trent Harkrader, and Nick Alexander:

- Blair LittleJohn, School District of Palm Beach County
- Larry Padgett, School District of Palm Beach County
- Jean Welsh, Fairfax County Public Schools, VA
- Joe Kitchens, Western Heights Public Schools, OK
- Sherwin Collette, Montgomery County Public Schools, MD
- Ed Lavergne, Fish & Richardson (Counsel to the Coalition)
- Donna Balaguer, Fish & Richardson (Counsel to the Coalition)

We were joined at the meeting by John Harrington and Orin Heend of Funds For Learning LLC (“FFL”). The attached document was provided to Commission representatives at the meeting.

We explained that the Coalition represents a broad cross-section of schools, including both small school districts and some of the largest districts in the United States. Collectively, the Coalition represents over 1,600 schools and 1 million students. Members of the Coalition seek to (1) ensure the long-term sustainability of the E-rate program, (2) provide applicants with greater budget certainty and predictability, and (3) provide applicants with greater flexibility to use E-rate funds in ways that will best meet their specific needs.

The Coalition believes that the fundamental problem with the E-rate program today is that there is no mechanism to distribute the finite amount of available funds equitably among applicants. In fact, there are no limits on the funding available to individual E-rate applicants. As a result, year after year, a small number of applicants receive a disproportionate share of available funds, leaving others underfunded. By way of example, in funding year 2013, 47% of the demand for E-rate funds came from just 5% of school applicants. This, in turn, has led to the majority of schools having no access to funding for priority two services, even though such services are necessary to connect students to broadband.

Adding more money to the program, changing the eligible services list, or modifying the two-in-five priority two rule will not solve the problem over the long term. The solution is to establish per-applicant budgets. The Coalition, working with FFL, has proposed a specific formula for setting applicant budgets. The formula is transparent, easily calculable, and based on publicly-available numbers. The Coalition has also drafted proposed rule changes to implement the formula. While some adjustments may be appropriate, FFL and the Coalition have provided the Commission with the basic framework and path forward to improve and sustain the program.

Under the Coalition proposal, all applicants would be funded, small schools would be protected, and remote rural schools would receive additional funding to accommodate their unique needs. The Coalition's attendees – who provided their viewpoints based on actual day-to-day experiences in educating children through technology supported by E-rate – each explained that they analyzed the per-applicant budget proposal and determined that it will benefit schools and sustain the E-rate program. The advantages of the proposal include the following:

- The proposal can be implemented quickly and without the need to make major changes to the E-rate program.
- The proposal is easily adaptable to accommodate other changes the Commission makes to the program.
- Funding would be more predictable and budgets more stable.
- Applicants would have an incentive to drive harder bargains with service providers and plan their E-rate purchases more carefully.
- Funding decisions could be made more quickly, reducing rollovers and associated delays.

FISH & RICHARDSON P.C.
Ms. Marlene H. Dortch
February 26, 2014
Page 3

With respect to the priority system, we pointed out that the existing system incentivizes E-rate applicants to make purchasing decisions based on outdated regulatory classifications rather than sound technological and economic considerations. For example, because applicants have a much better chance of receiving funding for priority one services, they often choose such services for deploying broadband even though there may be more cost-effective priority two solutions available.

Pursuant to Section 1.1206 of the Commission's Rules, this letter is being filed electronically.

Sincerely yours,

/s/ Edwin N. Lavergne

Edwin N. Lavergne
Counsel to the E-rate Reform Coalition

cc Jon Wilkins
Michael Steffen
Trent Harkrader
Nick Alexander
John Harrington

E-rate Machine



\$2.3 billion
goes in

\$1.8 billion
comes out

Increasing the efficiency

Reduce rollover

Speed-up
funding commitments

Increase accuracy
of funding requests

Minimize admin

Changes to ESL, lowering
discount rates and rationing
services do not address
systemic issues