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

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

E-RATE CENTRAL COMMENTS IN RESPONSE TO THE
JULY 23, 2013 NOTICE OF PROPOSED RULEMAKING
(FCC 13-100)

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Tel/Logic Inc., d.b.a. E-Rate Central, submits these Comments in response to the FCC's Notice of Proposed Rulemaking released July 23, 2013, designated FCC 13-100, seeking comment on prospective changes to modernize the E-rate program.

E-Rate Central is an independent firm providing E-rate application and consulting services to over 400 school and library applicants nationwide. It also provides E-rate support services for eight states and is an active member of the State E-Rate Coordinators' Alliance ("SECA") and the E-Rate Management Professionals Association, Inc. ("E-mpa").

Introductory Comments and Summary

E-Rate Central believes that it is important to acknowledge at the outset that E-rate has been, and remains today, a valuable and successful program. It has both allowed and encouraged schools and libraries to dramatically improve their access to the Internet to a degree that would simply not have been possible without E-rate.

Recent efforts to focus more attention on broadband — be it President Obama's ConnectEd initiative, the Senate Commerce Committee's call for an E-rate 2.0, or the FCC's current NPRM — are welcome. Hopefully this can be accomplished more through a fine-tuning of E-rate rather than a major overhaul. For the most part, the current E-rate rules, regulations, and procedures — not to mention fourteen years of precedent — have served us well.

E-Rate Central notes that this NPRM includes many ideas for changes to the E-rate program, but few actual proposals. Ideas, even conceptually simple ones, are difficult to evaluate fully without an understanding of how they would be implemented. Our comments, therefore, focus first on the NPRM's specific proposals, and only secondarily on the other ideas. Should the Commission decide to pursue these other ideas, we would hope to be given a further opportunity to comment on the details.

The following is an outline of the key points made in these comments:

Comments of Specific Proposals

- Focus on broadband, but explore broader USF support of off-campus wireless Internet for 24x7 learning
- Eliminate regulatory differences between lit and dark fiber
- Re. phase out of specific services
    - Eliminate paging
    - Eliminating miscellaneous telephone services may be more difficult than it is worth
    - Text messaging should not be eliminated
    - Multi-year phase outs should be avoided
    - Cost allocation on web hosting needs to be revised
    - NIFs should remain eligible for Priority 1 support
    - Eligibility of Internet2 would support broadband goals

- Re. funds distribution
  - Reduce the maximum discount to 75-80%
  - Matrix discount for districts creates Priority 2 threshold problems
  - Perceived simplicity of per student funding is illusionary
  - Rescind the two-in-five rule
- Re. transparency
  - Proposals on pricing transparency would lead to unwarranted USAC role in market regulation
  - Greater USAC transparency needed on cost allocation procedures
- Re. streamlining
  - Retain paper filing option
  - Approve multi-year contracts
  - Pay BEAR reimbursements direct to applicants
- Update rural designations using NCES definition
- Document retention period should remain at five years
- Major forms (470, 471, 473, and 498) should be signed by senior officers
- National emergency procedures should include site substitution and immediate equipment disposal

Comments on Other Ideas

- Amortization should still be required for high installation charges on broadband projects
- Current application review procedures do not encourage consortia
- Use of state master contracts should not be mandated
- Filing of competitive bidding documents is administratively burdensome
- USAC should publicize internal guidelines on cost-effectiveness
- Requirements to formalize broadband planning would be step backwards
- Eliminate Forms 479 and 486
- Consider program funding for state E-rate administration
- Reduce COMAD exposure over time for non-fraudulent conditions
- Encourage Form 500 cancelations/reductions via form certifications and/or reminders
- Re. appeal processes
  - Delegate limited authority to USAC to waive certain rules
  - Precedent setting FCC appeal decisions should be published periodically in summary orders
  - Greater transparency is needed on long-pending FCC appeals
- For CIPA, student-owned devices used on-campus with non-school Internet must be governed by the school's Internet safety policy
- Discounts for CEO schools should be determined by direct certification percentages and the current USDA/USDE multiplier
- WiFi community hotspots should be explored in a limited pilot program

Comments on Specific Proposals

Focusing E-Rate Funds on Supporting Broadband (beginning @ Para. 65):

Through FY 2013, there have always been sufficient funds to support all existing Priority 1 services, albeit increasingly at the expense of funding for Priority 2. Now, with the continued growth in demand for Priority 1, driven largely by broadband, even full funding for Priority 1 is in jeopardy. The only solutions to this problem would appear to involve some combination of (a) narrowing the list of eligible services, (b) reducing discount rates, and/or (c) increasing E-rate funding — all alternatives discussed further below.

Whatever the solution(s) to this problem, E-Rate Central agrees that broadband should be the focus. E-rate — or, more broadly, the Universal Service Fund — cannot be expected to be the sole provider of educational technology funding in our schools and libraries. Focusing on telecommunications aspects of the technology, particularly on broadband, is an important and logical objective, clearly aligned with the broader USF goals and objectives (including the Connect America Fund).

If substantially more E-rate funds were available, E-Rate Central would be encouraging the Commission to explore ways to use E-rate to foster 24x7 learning by subsidizing off-campus wireless Internet access — another telecommunications-oriented and educational technology need — particularly for low-income students. While such E-rate support appears financially impractical, some assistance in this area may result by refocusing Low Income funding on Internet and/or by the E-rate wireless community hotspot idea (discussed separately below).

Lit vs. Dark Fiber (beginning @ Para. 71):

Technically, the distinction in E-rate parlance between "lit" and "dark" fiber owned by service providers is negligible, often involving just the ownership of the relatively inexpensive GBICs. If only for consistency, E-Rate Central supports eliminating differences in regulatory treatment. Special construction charges, built into the eligible service charges for lit fiber, should also be eligible for dark fiber. Basic terminating equipment, eligible for lit fiber, should also be eligible for dark fiber.

Phase out of Specific Services (beginning @ Para. 90):

As a general principle, E-Rate Central supports a paring down of the Eligible Services List as a means of both simplifying the program and making more funds available for more critical services. We do not, however, agree with all the services marked for elimination. In particular:

1. Paging is no longer a critical service, and could be eliminated now with little economic impact on many, if any, applicants. We see no need to phase out the service. Procedurally, since comments have already been sought and received on the Eligible Services List of FY 2014, it may be easier to eliminate the eligibility of paging as of FY 2015.

2. The miscellaneous telephone services marked for elimination are likewise not critical, but have the unfortunate characteristic of often being identified as obscure line items within

large bills, particularly summary bills. Unless these charges are prominently listed in telephone bill summaries, the effort to allocate out these charges, whether by applicants or USAC reviewers, is likely to more than offset the savings of reduced funding. Phasing out the eligibility of these services would further complicate this cost-effectiveness balance.

3. Text messaging often serves as an alternative for e-mail. Both services are playing an increasingly important role in student-teacher communications. For technical neutrality, both should both be eligible (our view) or ineligible. Most wireless carriers treat text messaging, at least up to some limit, as a basic bundled service. Making text messaging ineligible would lead to new cost allocation issues.

4. Multi-year phase-outs of eligible services add complexities to the application process and should be avoided. The alternative of lowering discounts or funding priorities should likewise be avoided. Pre-announcing target dates for the withdrawal of support provides a simpler way for applicants to plan.

5. With regard to the eligibility of other services, we offer the following summary comments:

   a. Web hosting pricing has indeed become skewed. If not made ineligible, cost allocation procedures need to be significantly revised.

   b. Educational purpose, as applied to mobile services, needs to be reconsidered both for voice and data usage by staff off-campus, and ideally for 24x7 student learning.

   c. For administrative convenience, and consistent with educational purpose, E-rate support for non-instructional buildings should remain eligible for Priority 1 support. At a minimum, support is needed to provide access to standalone NOCs.

   d. Given the emphasis on broadband digital learning, it is time to consider making Internet2 eligible. Doing so would provide an added incentive for meeting the targeted broadband capacity goals.

Funds Distribution (beginning @ Para. 116):

As a previous member of USAC's Task Force on Waste, Fraud, and Abuse, and as a member of SECA, E-Rate Central supports recommendations made by both to lower the maximum discount below the 90% level. We have seen too many examples of excessive spending by applicants at the highest discount levels, often driven by overly aggressive sales efforts by vendors targeting the poorest schools and libraries. E-Rate Central would support compressing the discount matrix from a maximum of 90% range to 75-80% (maintaining the 20% floor to provide some meaningful discount for all applicants). We recommend that the discount matrix be revised consistently for both Priority 1 and Priority 2.

As with libraries, calculating school discounts based on total students would simplify the calculation process,[1] creating both winners and losers.[2] Unless the Priority 2 threshold

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[1] Note that school districts may have a mix of urban and rural schools. Changing to a total student count discount, while maintaining the rural/urban distinction, would require a mechanism for defining an entire district as either urban or rural.

mechanism is changed, however, the real problem would be the creation of large blocks of applicants at the matrix discount points, eliminating mid-matrix cutoff points for fine-tuning available Priority 2 funding. Unless consortium discounts are also calculated based on total student counts (which would have to be done on an FRN-by-FRN basis), only consortia would have non-matrix discounts.

Regardless of how an aggregate discount rate is calculated, E-Rate Central agrees that a single percentage rate should be applied to all of an applicant's supported services. This is consistent with a singular budget for a district, and would prevent attempts to game the Priority 2 system. A single percentage rate, however, should not apply to a consortium whose application(s) may involve different services for different groups of members.

E-Rate Central is strongly opposed to the adoption of per-student or per-building budget caps (or, even worse, fixed applicant budgets). In particular:

1. Budget caps limit funding for the truly needy, while tending to encourage funding requests up to the cap by all others.

2. Virtually every complaint we've heard regarding the unfairness of a particular per-student cap amount has been countered with a proposal for a new category or exception based on location, size, school type, school age, prevailing wage rates, etc. The simplicity of a per-student approach, as perceived by some, appears illusionary.

3. The biggest concern with the per-student cap appears to be the treatment of consortia (for which no viable solution has been proposed). Limiting funding for consortia, or simply making consortium funding more complex, would appear contrary to the FCC's support for consortia as a means of spurring cost-effective broadband deployment.

Like others, E-Rate Central supports increased access to internal connections funding. Where we differ from some others is our belief that internal connections funding need not be available for all, or, as discussed above, that it is necessary or even wise to be provided at discounts as high as 90%. As we have shown in the past, reducing the maximum discount on both Priority 1 and Priority 2 will make more funds available for internal connections, in some cases boosting the total discounts available for poor schools and libraries for which Priority 2 funding has been historically limited.

Regardless of how the FCC addresses additional funding for internal connections, E-Rate Central supports rescinding the two-in-five rule which has proved ineffective and unduly complicated.

Increased Transparency (beginning @ Para. 191):

As a general matter, the FCC proposes to increase the transparency of E-rate spending and of the prices being paid for actual products and services. The NPRM outlines a range of ideas to increase transparency, but offers no indication of specific actions. Our comments, therefore, are also somewhat general.

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[2] In our library experience, those entities previously with non-matrix discounts of 61-69%, for example, generally dropped to 60% from under 65%, and rose to 70% (rural) or 80% (urban) from over 65%.

Spending Transparency:

USAC's Data Retrieval Tool already provides detailed information on all funding since the program's inception. Because the information can be accessed only on a year-to-year basis, however, the DRT is not particularly useful for anyone — applicants, service providers, or the general public — seeking an applicant's entire funding history. A better approach for finding historical funding data is to use an approach similar to E-Rate Central's Funding Quick Search tool, available on a state-by-state basis, for every billed entity. This tool provides easy access to summary funding data for all funding years, more detail for individual funding years, and still more detail by individual funding requests.

Pricing Transparency:

E-Rate Central is concerned that many of the ideas suggested to increase price transparency would lead to an unwarranted expansion of USAC's role into market regulation. There are clear tradeoffs between pricing transparency and applicant/vendor confidentiality with respect to bids and prices. Care must also be taken to avoid procedural approaches that would mean added administrative burdens for applicants and/or service providers. E-Rate Central would support a more modest approach to providing more pricing transparency by making Item 21 attachments publicly available. Before going beyond that level of pricing transparency, we believe the FCC should focus on clarifying Lowest Corresponding Price regulations.

USAC Transparency:

Greater transparency is also needed in USAC's cost-allocation procedures and decisions with regard to eligible/ineligible products and services. In this regard, the FCC and USAC should consider reestablishment of the Eligible Products Database or making USAC's internal eligible services tool publicly available.

E-Rate Central agrees with SECA's position referenced in Paragraph 232 regarding the need for greater information from USAC on the status of long-pending decisions. Somewhat ironically, we find that suspension and debarment terms resulting from completed investigations are often less onerous than black hole conditions imposed on applicants and service providers still under investigation. The imbalance should be reversed by tightening debarment terms and developing more formal due process procedures. Consideration should be given to transitioning the reporting responsibilities of USAC's existing ombudsman office to the FCC.

Streamlining Program Administration (beginning @ Para. 226):

E-Rate Central acknowledges that electronic filing is important to the efficient administration of the program, but notes that it is already in widespread use. It should not be mandated. Specifically:

1. A paper filing process serves as an important backup mechanism (as it did recently in August 2013 when the online invoicing systems were down).

2. The online form systems are not currently designed for efficient use by certain types of filers, particularly those filing numerous or large applications.

3. Redesign of the online filing systems, including development of an applicant portal, could encourage further online use. USAC should be instructed to reach out to paper filers to determine what additional online system features would be attractive.

E-Rate Central agrees that the approval of multi-year contracts — <u>if</u> combined with the flexibility to accommodate service level changes — would speed applications review and provide greater applicant certainty.

Closely related to the multi-year contract issue, but not discussed in the NPRM, are problems related to USAC's current state replacement contract ("SRC") procedures to permit easier applicant use of contracts expiring midway through a funding year. One approach would be to permit an applicant, without requiring a separate competitive bid, to sign an individual E-rate contract addendum with the current state master contract holder agreeing to extend contract pricing through the end of the funding year.

E-Rate Central strongly supports the payment of BEAR reimbursements to applicants, both to speed the reimbursement process and to reduce the administrative burden on service providers. This would also eliminate or reduce the need for USAC's Good Samaritan and supplier bankruptcy procedures. Service providers should be encouraged to more clearly differentiate eligible and ineligible services on applicant invoices. Service providers must continue to review BEARs before submittal. Applicants should not be required to review SPIs before submittal, but should be able to request review.

Rural Designation (beginning @ Para. 276):

Assuming that the Commission wishes to maintain the discount matrix distinction between urban and rural — and we have no data to suggest otherwise — E-Rate Central agrees that it is time to update the definition of "rural." Use of NCES definitions appears to be the most reasonable choice. Its primary disadvantage — delays in obtaining NCES codes for newer schools — could be offset with a rule permitting temporary use of the NCES designation from the nearest NCES school.

Document Retention (beginning @ Para. 276):

E-Rate Central strongly disagrees with the proposal to extend the document retention period for E-rate from five to ten years. While recognizing that the FCC has already extended the retention requirement for other USF programs, we believe that there are unique aspects of the E-rate program which make a longer period unduly burdensome. In particular:

1. It is important to recognize how broad the record retention requirement is for an E-rate applicant. It is one thing to be required to retain basic E-rate filing material, but quite another to be required to keep all backup records historically required in E-rate audits. That would include all NSLP data, related accounts payable and receivable records, inventory records, staff development records, filtering records, etc. — many records that the school's or library's E-rate contact may not directly control.

2. For public schools and libraries, many of these types of records are subject to state record retention rules, most of which do not go out 12-15 years. Extending the retention period

for these E-rate records would require applicants to maintain separate files and procedures — a significant administrative burden.

There is already E-rate applicant concern about the extended "statutory limitation" on E-rate funding subject to potential COMADs. As indicated in a discussion below, COMADs for public schools and libraries, subject to annual budgets — as tight as they are — are worse than not getting funded at all. Subjecting applicants to COMADs over the current five-year record retention period is bad enough; doubling the period is unthinkable.

Form Signatures and Certifications (beginning @ Para. 300):

Requiring signatures of senior officers on certain service provider forms, and signatures of an equivalent authority on certain applicant forms, provides a useful reminder to corporate, school, and library officers of their real responsibilities with regard to E-rate. E-Rate Central does not believe, however, that such reminders are needed or even practical for all forms. In particular, we would suggest that:

1. Authoritative signatures be required only on those forms with the most important certifications, namely Forms 473 and 498 for service providers, and Forms 470 and 471 for applicants.

2. Signatures by day-to-day operating personnel should be permitted on invoicing forms (Forms 472 and 474) and other more routine forms (Forms 479, 486, and 500).

The FCC's decision on form signatures should explicitly address the issue of forms signed on behalf of applicants (or even service providers) by E-rate consultants. E-Rate Central believes that the nature of the certifications on E-rate forms require explicit agreement by the service providers and applicants which cannot and should not be assigned to a third party. At a minimum, forms requiring signatures by senior officers or equivalent (as recommended above) should not be signed by consultants.

National Emergency Procedures (beginning @ Para. 300):

E-Rate Central agrees that the FCC should codify E-rate disaster procedures as a way to provide more timely relief without always requiring situation-specific waivers. We also agree with the related proposals on relief from rules on record retention, competitive bidding, and two-in-five, on the additional certifications. Additionally, we suggest that the FCC:

1. Acknowledge that service substitution provisions include site substitution, i.e., the ability to transfer approved, but not yet utilized, funding from schools which are no longer operational to others.

2. Relax equipment disposal rules to permit the immediate removal and disposal of destroyed equipment.

Comments on Other Ideas

Other Ideas for Ensuring Affordable Access to 21ˢᵗ Century Broadband:

Funding for Broadband Connections (beginning @ Para. 67):

Amortization of high installation costs should still be required for the funding of large broadband deployment projects. The threshold for amortization should be tied to project size (e.g., the greater of $500,000 or $50,000 per connected site). Three years remains a practical minimum amortization period. Full fiber or IRU purchases may be most economical and should be eligible (as should third-party maintenance of applicant fiber). Allowing purchases eliminates the need for determining if high installation charges, combined with low recurring service charges, constitute an ineligible "effective" purchase.

Other Ideas for Maximizing the Cost Effectiveness of E-Rate Funds:

Increasing Consortium Purchasing (beginning @ Para. 179):

Consortium purchases can be more cost-effective on a pure dollar-per-bandwidth basis. More importantly, perhaps, is that consortium organizations drive broadband deployment across large regional areas. Unfortunately, current E-rate rules and procedures tend to discourage consortium applications. In particular:

1. As larger dollar applications, they tend to be funded much later. Application reviews are often delayed pending the resolution of individual member application issues not affecting the consortium services, e.g., individual school closure on state network applications.

2. Consortia require additional filing steps, specifically LOAs and Form 479 collections. Information required in the proposed FRN data table on the new draft Form 471 would also be difficult for consortium leads to collect.

Encouraging Other Types of Bulk Buying Opportunities (beginning @ Para. 186):

State master contracts can provide an effective mechanism for creating cost-effective purchasing opportunities for E-rate applicants, but are not always geared to specific E-rate needs (see our comment on State Replacement Contract procedures above). As such, their use should not be mandated for applicants. From a program administrative standpoint, state master contract pricing may also prove useful serving as state or regional benchmarks for LCP enforcement.

Improving the Competitive Bidding Process (beginning @ Para. 179):

E-Rate Central notes that the competitive bidding process does not ensure the cost effectiveness of resulting purchases. Overly restrictive bidding rules themselves, however, can quickly become overly burdensome for both applicants and administrators. The most recent example was the application of federal employee gift rules to the E-rate process which created extensive confusion, much of it still unresolved, among applicants and service providers. With respect to competitive bidding ideas included in the NPRM, we note:

1. The competitive bidding document requirements discussed in the waste, fraud, and abuse section *(beginning @ Para. 179)* would be administratively burdensome for all involved.

2. It would be difficult to structure a Form 470 to provide the same degree of detail as provided in a full RFP, but requiring RFPs would severely complicate E-rate for many applicants. The major benefits of the current Form 470 are to provide: (a) a basic list of services desired; (b) contact information; and (c) notification of RFP availability, if appropriate. These benefits could be enhanced by placing this information in applicant portals.

3. Form 470s should not even be necessary for state master contracts.

Efficient Use of Funding (beginning @ Para. 211):

USAC already has loose guidelines/flags on cost-effectiveness for use in application review, but does not make these public. Tighter — and public — benchmarks could provide guidance to applicants (and bidders) if tied to the realization that requests in excess of these guidelines, while not grounds for denial, would require greater scrutiny.

Broadband Planning and Use (beginning @ Para. 217):

Requiring formal reviews or assessments of broadband needs and usage, while a best practice, would be a step backwards from the elimination of the technology plan requirement for Priority 1 services, a major streamlining improvement for many applicants.

Other Ideas for Streamlining the Administration of the E-Rate Program:

Speeding Review of Applications and Disbursements (beginning @ Para. 233):

There are some pluses and minuses to other ideas expressed in the NPRM for speeding the review of applications, commitment decisions, and funding disbursements. In summary, E-Rate Central believes:

1. Firm USAC deadlines may not be feasible, but the FCC should at least establish reasonable targets to set expectations.

2. Additional filing windows, while they might smooth USAC workflow, would likely be burdensome and confusing to applicants.

3. Forms 479 and 486 can be eliminated by moving CIPA and tech plan certifications to the Form 471.

Third parties can play an important role in streamlining of the E-rate program for the benefit of both the applicants and the administrators. In particular, we note the following:

1. Applicant use of consultants should not be deemed as a condemnation of program administration as much as an indication of the importance of the program to the applicants, the recognition that E-rate is only one of a multitude of tasks handled by school and library administrators, and an understanding that experienced E-rate consultants can facilitate USAC's administrative process.

2. Given the important role played — or, in some areas, needed to be played — by State E-Rate Coordinators, consideration should be given to funding broader and effective E-rate coordination at the state level.

Funding Recovery Considerations (beginning @ Para. 252):

E-Rate Central agrees that full funding recovery is an excessive penalty for funds disbursed in error under non-fraudulent conditions, particularly for errors found on applications previously having undergone thorough USAC review. Subject to guidelines established and periodically reviewed by the Commission, percentage recovery decisions should be delegated to the WCB which, over time as precedents are developed, may be partially delegated to USAC. As a general principle, percentage recoveries should decline over time to provide an increasing degree of applicant certainty. E-Rate Central notes that COMADs are particularly troublesome for public budgeted schools and libraries — worse than not getting funded at all. Consideration should be given to allowing applicants (or service providers) to repay COMAD amounts upon request from future invoiced disbursements.

Effective Disbursement of Unused Funding (beginning @ Para. 254):

Undisbursed funds are a natural result of the non-grant nature of E-rate, aggravated by delays in the application approval process. Funding cancellations or reductions via Form 500 could be encouraged via form certifications and/or reminders.

Streamlining the E-Rate Appeal Process (beginning @ Para. 266):

Both the USAC and the FCC appeal processes need to be streamlined. E-Rate Central suggests:

1. The FCC should consider delegating limited authority to USAC to waive certain rules and deadlines during application review and/or upon USAC appeal.

2. Precedent setting FCC appeal decisions should be periodically published in summary orders.

3. Greater transparency on the status of FCC appeals is needed, particularly on long-outstanding appeals.

Other Outstanding Ideas and Issues:

The Children's Internet Protection Act (beginning @ Para. 271):

E-Rate Central agrees that the FCC needs to provide guidance concerning the applicability of CIPA to on-premise use of patron- or student-owned devices, and conversely to the off-premise use of library- or school-owned devices. We believe that:

1. Non-applicant-owned devices used on-premise over E-rate supported networks should be subject to the same CIPA requirements as applicant-owned devices.

2. At least for schools, non-applicant-owned devices used on-premise, but utilizing the applicants' own wireless Internet services, should still be subject to the applicant's Internet safety policy provisions including monitoring and education. Note that this variation, involving devices used over non-E-rate supported networks, is not discussed in the NPRM.

3. Particularly for schools, applicant-owned devices used off-premise, whether or not accessing the Internet back through the applicant's network, should still be subject to the applicant's Internet safety policy provisions of acceptable use.

In the latter case — and aside from any E-rate considerations — E-Rate Central is finding an increasing number of schools concerned with their legal exposure should students be found to be accessing inappropriate content using school-owned devices outside of the school. To address such concerns, we have been recommending that off-campus use of school-owned computers be explicitly covered in the schools' Internet safety policies, and that acceptable use policies for off-campus use require parental counter-signatures acknowledging the schools' limited control.

Addressing NSLP Changes for CEO (beginning @ Para. 282):

Schools participating in the USDA's free meals program under the relatively new Community Eligibility Option are currently calculating E-rate discounts using earlier year NSLP data under guidance provided by the FCC last summer. For schools which have been operating under CEO the longest, the earlier NSLP data is becoming seriously outdated. Equally disturbing, there is no good mechanism for calculating discounts on new CEO schools for which there is no historic NSLP data. As the NPRM recognizes, a more permanent solution is required.

As an alternative mechanism, at least on an immediate basis, E-Rate Central encourages the FCC to adopt a policy giving CEO schools — and only CEO schools — the option of using the CEO direct certification multiplier to determine their percentage of eligible students.

We note that E-rate rules already permit schools that choose not to use — or, in this case, cannot use — an actual count of students eligible for NSLP to use a federally-approved Title I alternative mechanism. We note also that the U.S. Department of Education has adopted the multiplier approach for its own use. In a letter to chief state school officers dated July 6, 2012, the USDE indicated the following:

> When annually determining the eligibility of a Community Eligibility Option school to receive Title I funds, an LEA must assume that the percentage of economically disadvantaged students in the school is proportionate to the percentage of meals for which that Community eligibility Option school is reimbursed by the USDA for the same school year. Thus, to calculate this percentage, the LEA should multiply the number of students identified by the direct certification data by the statutory multiplier specified in the Act and divide by the enrollment in the school. To calculate the school's Title I allocation, the LEA must use the number of students identified by the direct certification data adjusted by the statutory multiplier.

Given this Title I guidance, we believe that the FCC could permit use of the CEO multiplier of 1.6x currently being used by both USDA and USDE as an alternative measure without requiring a change in E-rate rules. Arguably, under current E-rate rules concerning alternative discount mechanisms, the use of the 1.6x CEO multiplier for Title 1 purposes automatically makes its use acceptable for E-rate purposes as well. If this is the case, then the FCC need only clarify this provision.

We suspect that one of the FCC's concerns with using the 1.6x multiplier for E-rate purposes is that 1.6x multiple might be too high and might inflate E-rate discounts. E-Rate Central, in analysis of 252 New York CEO schools for the FY 2013 applications, found that this was not the case. When we compared FY 2012 student eligibility percentages to direct certifications percentages, the average multiplier for equivalency was 1.32x. A couple of other states doing the same analysis found a similar equivalent multiplier. The real question, however, is what effect would different multipliers have on actual discount rates? Since the CEO schools all have high low-income populations, most are already at the 90% discount level. A multiplier that raises the eligible student percentage from, for example, 81% to 89%, has no effect on the school's 90% discount rate. Analyzed from this perspective — one reason we recommend restricting use of the 1.6x multiple to CEO schools only — we found that 1.6x actually produced more accurate results than using a 1.3x multiple. As shown in the results table below, there was no difference in schools which might get a higher discount, but a much lower distortion for schools which would get a lower discount.

Discount rate change		
at 1.3x	at 1.6x	
203	225	Same discount
19	19	Higher discount
30	8	Lower discount
252	252	

Longer-term, the FCC should work with USDA and USDE to establish poverty measure based solely on direct certification percentages, adjusting the discount matrix accordingly.

Wireless Community Hotspots (beginning @ Para. 319):

E-Rate Central is intrigued with NPRM's idea of extending the school community use provision off-campus through the use of E-rate supported WiFi hotspots. In one sense, it is a limited response to the perceived need to support 24x7 learning through off-campus wireless access. On the other hand, the hotspots concept raises a number of potentially significant issues including cost, effectiveness, public/private competition, etc. Should the FCC decide to pursue the community WiFi concept, E-Rate Central recommends that it start with a limited pilot program.

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