

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

In the Matter of	)	
	)	
Ensuring Children’s Safe Use of Screens and	)	WC Docket No. 26-133
E-Rate-Funded Services	)	
	)	
Modernizing the E-Rate Program for	)	WC Docket No. 13-184
Schools and Libraries	)	
	)	
Establishing the Emergency Connectivity	)	WC Docket No. 21-93
Fund to Close the Homework Gap	)	
	)	
Promoting Fair and Open Competitive	)	WC Docket No. 21-455
Bidding in the E-Rate Program	)	
	)	
	)	
	)	

**COMMENTS OF THE
BENTON INSTITUTE FOR BROADBAND & SOCIETY**

October 13, 2026

SUMMARY

The Universal Service Fund's Schools and Libraries program—known as E-Rate—is one of the most successful federal telecommunications programs in American history and one of the most consequential investments this nation has made in educational equity. The Benton Institute for Broadband & Society (“Benton”) has been engaged with the E-Rate program since its creation, and Benton files these comments to urge the Commission to build on the program's extraordinary record of achievement—not to dismantle it.

The E-Rate Delivers on Its Promise. When Congress created E-Rate as part of the Telecommunications Act of 1996, only 3 percent of classrooms had internet access. Today, more than 96 percent of public schools and virtually all public libraries are connected to the internet—a transformation that did not happen because markets solved the problem but because Congress created a permanent, sustained affordability program that made high-speed connectivity financially viable for the schools and libraries that communities depend on. Over nearly three decades, E-Rate has invested more than \$69 billion in school and library connectivity, serving 54 million students, 106,000 schools, and 12,500 libraries. The program's record is clear: it works, it is cost-effective, and it is vital.

The E-Rate Is More Needed Today Than Ever. The Commission asks whether E-Rate has “fulfilled its mission.” The answer is: not yet—and the goalposts have moved considerably. Schools are connected, but connectivity demands are accelerating faster than infrastructure investment. Nearly half of school districts still do not meet the Commission's own 1 Mbps-per-student bandwidth goal. Eighteen percent of high school students and 16 percent of middle school students report they sometimes cannot complete schoolwork because they lack internet access outside of school. More than 40 percent of Title I teachers avoid assigning internet-

dependent work because they fear it will exacerbate inequalities. At the same time, artificial intelligence—which sixteen Nobel laureates and more than 2,700 economists warn could transform the global economy more dramatically than the Industrial Revolution—is rapidly becoming the defining technology of the workforce these students will enter. South Korea, China, and Singapore are making massive, sustained investments in school connectivity precisely because they understand this. The United States cannot afford to go in the opposite direction.

E-Rate Funding is an Extremely Sound Use of Resources. Notably, the Commission's NPRM does not claim that E-Rate is wasteful, much less that the program is so inefficient that it should be downsized or abolished for that reason. Indeed, E-Rate is a remarkably efficient program. While waste should always be minimized to the fullest practicable extent, no public or private grant program has a zero rate of waste. E-Rate functions are subject to rigorous audits showing the program has lower rates of waste than other public and private sector programs and falls well below the statutory threshold identifying programs susceptible to improper payment risk.

Sunsetting the E-Rate Is Unlawful. Section 254 of the Telecommunications Act is a congressional mandate, not a discretionary program the Commission may terminate when it decides the mission is complete. The plain language of the statute cannot be read otherwise; it defines universal service as "an evolving level of telecommunications services that the Commission shall establish periodically...taking into account advances in telecommunications and information technologies and services." The statute contains no sunset provision, and the Commission cannot read one in. The 1996 Conference Report accompanying the Telecommunications Act makes Congress's intent plain: the program was designed to ensure "no one is barred from benefiting from the power of the Information Age"—a mandate with no

expiration date. The Supreme Court's decision in *FCC v. Consumers' Research*¹ upholding the constitutionality of the Universal Service Fund conveyed no authority to sunset it. Any effort to limit or sunset the E-Rate would be unlawful, catastrophic, and contrary to the Administration's own Executive Order directing agencies to prioritize AI education for American youth.

The Commission Lacks Authority to Impose Screen-Time Limits or Dictate Instructional

Decisions. Benton shares the Commission's commitment to child safety online. But the Commission's proposed conditions—per-day limits on E-Rate network use, restrictions on screen-based instruction, opt-out requirements for parents—exceed the Commission's statutory authority under both Section 254 and the Children's Internet Protection Act (CIPA). Section 254 is a funding mechanism, not a curriculum standard. CIPA explicitly reserves to local school boards, not the Commission, the authority to determine what content is inappropriate for minors—and expressly prohibits any federal agency from establishing criteria for any such determination. The Commission cannot transform a broadband subsidy program into an instrument of federal control over classroom instruction. These decisions belong to parents, educators, and local communities—as the Administration's own Education Secretary, the Speaker of the House, and leading education policy voices have consistently affirmed.

The Science Does Not Show a Causal Link between Screen Time and Learning Outcomes.

The Commission links screen time with declining academic outcomes. The evidence does not support that claim. The NCES data the Commission cites show a steep decline in reading and math scores among 9-year-olds from 2020 to 2022—years marked by pandemic-era learning disruptions. Multiple peer-reviewed meta-analyses and systematic reviews, including a 72-

¹ *Federal Communications Commission v. Consumers' Research*, supra.

country analysis, have found no consistent, measurable association between educational technology use and poor academic outcomes. The peer-reviewed literature consistently distinguishes harmful recreational and social media screen use—which raises legitimate concerns—from instructional technology use, which E-Rate supports. The Commission should not conflate them.

Where Benton Agrees with the Commission. Benton strongly supports expanding E-Rate's eligible services to include cybersecurity technologies—the program's \$200 million cybersecurity pilot was oversubscribed by a factor of 18, and growing AI-enabled threats make this need urgent. Benton supports clarifying CIPA's monitoring provision to prevent the invasive surveillance of students that an overbroad reading of the statute has produced. Benton supports reducing administrative burdens on smaller applicants, particularly libraries. And Benton supports updating the Commission's school connectivity targets to reflect the growing bandwidth demands of evolving technologies. Notably, the Department of Health and Human Services' own screen use advisory—cited repeatedly in the NPRM—explicitly states that it “does not set any specific policy mandates or restrictions on screen use in schools.”

Where Benton Disagrees. The Commission should reject proposals to sunset, geographically limit, or fundamentally restructure the E-Rate; to impose federal per-day screen-time limits on E-Rate-funded networks; to restrict Head Start and pre-kindergarten eligibility; to condition E-Rate funding on screen-time policies that local communities have not requested and that the Commission has no authority to require; and to use an expansive interpretation of "harmful to minors" or broad filtering mandates as a vehicle for restricting constitutionally protected speech in schools and libraries.

The Commission's path forward is clear: modernize and strengthen the E-Rate to meet the demands of an AI-driven economy, expand cybersecurity protections, and trust parents, educators, and local communities to make the instructional decisions that the law reserves to them. Even the National Education Association—whose members overwhelmingly support school-level device policies—found that educators “show little support for the federal government developing such policy.”

Table of Contents

SUMMARY	1
I. Introduction: The E-Rate Is One of the Nation’s Most Effective Telecommunications Programs	10
II. Sunsetting the E-Rate Program Is Unlawful.....	12
III. The E-Rate Program Has Delivered Affordable Access to High-Speed Broadband to and Within Schools and Libraries.....	21
A. From 3% to 96%	21
B. The Definition of Educational Purposes	24
C. Progress Enabled by Connected Learning	25
D. Generational Impact That Powers Our Economy.	27
IV. Why the U.S. Continues to Need the E-Rate: We Now Face a New Digital Learning Imperative	31
A. E-Rate is More Vital, and More Needed, Than Ever	35
B. Access in Schools is Still Unequal.....	35
C. E-rate Supported Networks Enable School Operations	37
D. Bandwidth Needed for Testing	38
E. As Technology Evolves, So Do Connectivity Needs.....	39
V. Head Start and Pre-Kindergarten Classrooms are Important Centers of Learning.....	41
VI. The Commission Should Keep Children Connected and Protected	44
A. Parental Priorities: Balancing Connectivity with Safety	48
VII. The Commission Should Reject Imposing Arbitrary Federal Screen-Time Learning Limits 51	
A. Parents Can Already Leverage Parental Controls to Limit School Screen Time.....	56
B. Managing Personal Devices in Educational Environments	62
VIII. Legal Constraints on Commission-Imposed Screen-Time Mandates.....	63
A. CIPA’s Statutory Scope is Explicitly Limited	64
IX. Addressing Misconceptions Regarding Screen Time and Academic Outcomes	65
X. Federal Learning-Time Limits are Impractical	72
A. Establishing digital learning limits in school creates operational and legal problems.	74
C. Students with Disabilities.	75
D. Communicating with Parents.....	77

XI.	Screen Time Limits in Libraries are Unconstitutional.....	77
XII.	The Commission Should Maintain Local Flexibility for Personal Devices and BYOD Policies.....	78
XIII.	The Commission’s Authority Over Off-Campus, Off-Device, and Off-Network Speech is Limited.....	80
XIV.	Age-Differentiated Learning Limits are Impractical	82
XV.	The Commission Should Prioritize Digital Literacy Over Content Regulation	83
XVI.	The Efficacy of Social Media Restrictions	89
XVII.	The Science on Social Media Harms is Not Yet Settled	93
XVIII.	Government-Imposed Social Media Bans are Often Ineffective	95
XIX.	The Commission Has No Authority to Opt Students Out of Digital Learning or Testing	97
XX.	The Commission Suggests an Unauthorized Interpretation of “Unauthorized Access”... ..	98
XXI.	Clarifying the Scope of Student Online Monitoring.....	99
XXII.	Fostering a Shared Responsibility Framework	102
XXIII.	The Commission Should Acknowledge the Limitations of Filters.....	103
XXIV.	The Commission Should Not Use Child Safety as a Pretext for Content Control	105
XXV.	The Commission Should Strengthen K-12 Cybersecurity Resilience	107
XXVI.	Special Construction and the Competitive Bidding Process are Vital Tools for Advancing Program Efficiency.....	111
XXVII.	The Importance of the Lowest Corresponding Price	117
XXVIII.	The Commission Should Make the E-Rate Program Less Burdensome	118
XXIX.	The Commission Should Expand the Definition of Classroom.....	121
XXX.	In-School Wi-Fi Should Not Be Restricted	121
XXXI.	Conclusion	123

I. Introduction: The E-Rate Is One of the Nation's Most Effective Telecommunications Programs

The Benton Institute for Broadband & Society² (Benton) respectfully submits these comments in response to the Federal Communications Commission's Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking seeking comment on the Commission's E-Rate Program.³

Benton is a 45-year-old, private operating foundation that conducts research and engages in advocacy to bring open, affordable, high-performance broadband to all people in the United States to ensure a thriving democracy. To advance its mission, Benton supports research on broadband availability, affordability, and use.

The E-Rate is a school and library connectivity funding program created to ensure that no child's school or citizen's library is cut off from the modern digital world because of cost or geography.

As the Commission considers significant changes to the E-Rate program, Benton welcomes the opportunity to provide meaningful feedback on the many questions raised in this proceeding and the fact-based review of the program.

The E-Rate has proven to be one of the nation's most effective telecommunications programs, with waste rates significantly below the average for comparable programs. It's now more important than ever that our kids are connected, protected, and well prepared for the jobs and industries of the future. As the Commission examines the E-Rate's future, it must ensure schools

² The Benton Institute for Broadband & Society (Benton) is a non-profit, operating foundation. These comments reflect the institutional view of the Benton Institute for Broadband & Society and, unless obvious from the text, are not intended to reflect the views of its individual officers, directors, or advisors

³ Ensuring Children's Safe Use of Screens and E-Rate-Funded Services, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, FCC 26-41 (June 26, 2026) (NPRM)

and libraries have continued access to the full promise and potential of reliable, scalable, affordable high-speed broadband connectivity, regardless of zip code or income.

While Benton shares the Commission's commitment to student safety, it believes that students must be both connected and protected. The Commission cannot lose sight of E-Rate's core mission: ensuring that students and educators have access to secure, high-capacity broadband required for digital learning. To this end, the Commission should remain focused on ensuring that schools and libraries have adequate broadband, that classrooms have robust Wi-Fi, and that students can take advantage of better learning, safer networks, healthy habits, and purposeful technology use that reflects the needs of each community as required by the Children's Internet Protection Act (CIPA).

Benton's positions in this proceeding are rooted in three fundamental principles:

1. The E-Rate is an unmatched American success story that must be modernized—not sunset—to meet the bandwidth demands of evolving technologies.
2. The Commission lacks the statutory authority to impose arbitrary regulatory hurdles, such as screen-time limits, which would transform a vital funding mechanism into an unworkable instructional standard.
3. True student protection is best achieved through digital literacy and local accountability, not by expanding federal overreach into the relationship between parents, educators, and their communities.

Furthermore, Benton must address a threshold legal question raised in this proceeding: the Commission's lack of authority to 'sunset' or fundamentally limit the E-Rate. In these comments, Benton shows that no statute authorizes such actions. On the contrary, Section 254 requires the

Commission to adapt to evolving technologies. The Commission should focus on advancing our learning infrastructure for the future, not dismantling a vital engine of our digital competitiveness.

Today's students are not merely competing with peers across the hall or across town; they must be ready to compete in a global, AI-accelerated economy. Our international peers view high-speed, scalable broadband as essential, evolving baseline infrastructure. If the United States is to maintain its leadership, it must ensure that every American and student—regardless of income or geography—has digital learning opportunities, and that our schools and libraries can become the most capable digital learning environments on the planet.

II. Sunsetting the E-Rate Program Is Unlawful

The Commission's request for comment on whether and how it might sunset or constrain the E-Rate program is truly astonishing. Leaving aside the palpable societal and economic benefits of keeping schools and libraries connected, secure, and up to date, the question is premised on a palpably false premise that flies in the face of the plain language of Section 254: there is absolutely no basis for claiming that the Commission has the power to constrain, much less abolish, the E-Rate program.

The plain language of Section 254 is mandatory, and the statute's structure is incompatible with construing it otherwise. Moreover, the suggestion that the Commission can revise the E-Rate program, as suggested by former Commissioner Harold Furchtgott-Roth, is at odds with the statute's language and binding judicial precedent.

A. The Plain Language of Section 254

Section 254 contains no word suggesting that the Commission has the power to sunset the E-Rate program. The word that appears repeatedly throughout Section 254 is “shall,” including, and most relevantly for immediate purposes, in Section 254(h)(1)(B), which provides that “[a]ll telecommunications providers...shall...provide such services to elementary schools, secondary schools and libraries....” This leaves no room for discretion to terminate the E-Rate discount mechanism.

The mandatory nature of E-Rate is further established in Section 254(h)(2)(A), which directs the Commission to establish rules “to enhance, to the extent technically feasible and economically reasonable, access to advanced telecommunications and information services for all public and nonprofit elementary and secondary school classrooms, health care providers, and libraries....” The word “enhance” is inherently and unambiguously forward-looking and inconsistent with discontinuation of service.

While the “shall” mandate is clear and direct, another phrase in Section 254 puts a nail in the coffin of any argument that the E-Rate program may not be discontinued. Section 254(c)(1) defines Universal Service as “an evolving level of telecommunications services that the Commission shall establish periodically under this section, taking into account advances in telecommunications and information technologies and services.” Perhaps recognizing the force of this provision, the Commission asks at paragraph 17 of the NPRM whether Section 254(c)(1) “is properly read to operate in only one direction.” What is “not obvious” to the Commission, but should be obvious to anyone familiar with the English language, is that the phrase “an evolving level” does not contemplate “narrowing” or eliminating E-Rate.

The word “evolve” has a clear, unambiguous meaning: growth, advancement and increasing complexity. It is incompatible with “extinction.” Merriam-Webster Collegiate Dictionary defines the verb “evolve” as “to produce by natural evolutionary processes” or “to develop or work out.” Merriam-Webster defines “evolution” as “a process of continuous change from a lower, simpler, or worse to a higher, more complex, or better state.”⁴

Similarly, the Oxford English Dictionary defines “evolve” as meaning “to develop by natural processes from a simple or rudimentary to a more complex or higher state.” And the Cambridge Dictionary says that “evolve” means “to develop gradually, especially from a simple to a more complicated form”⁵ Thus, far from even hinting that “evolving” would allow “extinction,” the plain language of Section 254 impels continuing the E-Rate program. This will remain true until such time as Congress legislates an end to the program, something that legislators know how to do.

Congress did not make universal service or the E-Rate program an optional experiment that is subject to agency discretion:

- Section 254(b) establishes that the Commission “**shall**” base its policies on preserving and advancing universal service, specifically ensuring access for elementary and secondary schools and libraries (§ 254(b)(6)).
- Section 254(h)(1)(B) states that eligible entities “**shall**” have access to the rates and discounts authorized therein.

⁴ *Merriam-Webster Dictionary*. Accessed October 12, 2026. <https://www.merriam-webster.com/dictionary/evolution>.

- Section 254(h)(2)(A) mandates that the Commission “**shall establish**” rules enhancing access to advanced telecommunications and information services.

The word “shall” creates an obligation impervious to regulatory discretion.⁶ The Commission cannot “sunset,” phase out, or conceptually abolish programs that Congress affirmatively commanded it to execute. Nor can the Commission read a sunset provision into a statute that contains none.

B. Structure of Section 254 Establishes Permanent Program

The structure of Section 254 further confirms that Congress designed E-Rate as a permanent fixture of national telecommunications policy. Section 254(b) establishes the core “Universal service principles” upon which the Federal-State Joint Board on Universal Service and the Commission must base their policies. Section 254(b)(6) explicitly enshrines “Access to advanced telecommunications services for schools, health care, and libraries” as a foundational principle. Congress did not frame E-Rate as a temporary grant program or a pilot project subject to administrative expiration; it codified it alongside permanent, bedrock goals such as ensuring quality services at just, reasonable, and affordable rates.

Another structural element of Section 254 is the establishment of the Federal-State Joint Board on Universal Service in Section 254(b). The board is directed to periodically recommend modifications to the definition of universal service. This mechanism—mandating periodic review to upgrade and adapt the program to new technological realities—is irreconcilable with the premise that the Commission has implied authority to terminate the program entirely. A

⁶*Lexecon Inc. v. Milberg Weiss Bershad Hynes & Lerach*, 523 U.S. 26, 35 (1998)).

statutory scheme built on continuous reassessment and expansion precludes an agency-initiated sunset.

C. The Furchtgott-Roth Ex Parte Submission Offers No Basis for Modifying the E-Rate Program

In paragraphs 14 through 17 of the NPRM, the Commission asks for comment on arguments advanced by former FCC Commissioner Harold Furchtgott-Roth. While Furchtgott-Roth is a distinguished economist, he is less grounded in the legal profession. His arguments fundamentally mischaracterize both the statutory structure of Section 254 and the current state of administrative law.

Claims that the E-Rate exceeds the Commission's statutory authority by utilizing a discount matrix, permitting direct applicant reimbursement, funding internal connections, and operating outside the strict confines of Section 214(e) Eligible Telecommunications Carrier (ETC) designations were all litigated and rejected decades ago in *Texas Office of Public Utility Counsel*.⁷

In the wake of *Loper Bright*,⁸ the Commission seeks "comment on whether interpretations of Section 254(h) that were sustained under Chevron deference are nevertheless consistent with the statute's text and structure, and whether the Commission should revisit them." This grievously misreads the Supreme Court's holding in *Loper Bright*.

⁷ *Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 393 (5th Cir. 1999).

⁸ *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024).

In *Loper Bright Enterprises v. Raimondo*, the Supreme Court explicitly anticipated and rejected the notion that overruling *Chevron* would reopen established judicial statutory determinations.

Writing for the Court, Chief Justice Roberts held:

“[W]e do not call into question prior cases that relied on the Chevron framework. The mere fact that a court relied on Chevron for its holding is not a ‘special justification’ for overruling statutory precedent. The holdings of those cases, which have their own statutory stare decisis effect, continue to be entirely lawful under the doctrine of stare decisis.”

Under *Loper Bright*, the Fifth Circuit’s decision in *Texas Office of Public Utility Counsel v. FCC*⁹ remains binding, enforceable precedent. Neither the demise of *Chevron* nor an agency’s shifting policy preferences provide the “special justification” required to disturb a quarter-century-old statutory precedent.

Even under *Loper Bright*, which eliminates judicial deference to agency interpretations, the best reading of the statute supports the current program structure:

- Congress explicitly defined the end goal: ensuring schools and libraries have affordable access to advanced telecommunications and information services.
- Congress explicitly authorized both offsets and direct reimbursements from universal service mechanisms.
- The operational mechanics of the E-Rate program—discounting invoices and reimbursing vendors or schools—directly execute the plain text of Section 254(h).

⁹ *Texas Office of Public Utility Counsel v. FCC*, *supra*.

And as mentioned, the Supreme Court also found that Section 254 had a clear and lawful "intelligible principle" to guide the FCC in administering universal service support mechanisms.

In addition, in adopting Section 254, Congress gave the Commission explicit authority to "*perform any and all acts, make such rules and regulations, and issue such orders... as may be necessary in the execution of its functions.*" [Emphasis added.] When Congress amended Section 254 in 2000, when it passed the Children's Internet Protection Act (CIPA), it explicitly legislated around the existing Universal Service Administrative Company (USAC)/E-Rate grant and reimbursement structure without altering or curtailing it.

In *Loper Bright*, Chief Justice Roberts explicitly shielded prior judicial decisions that relied on the *Chevron* framework from collateral attack. The Court unambiguously stated that the decision to overrule *Chevron* "does not call into question prior cases that relied on the *Chevron* framework." The Court affirmed that the holdings of those earlier cases—specifically the determinations that particular agency actions are lawful—remain "subject to statutory stare decisis despite our change in interpretive methodology."

D. The Legislative History of the Telecommunications Act Denotes a Permanent Program

The legislative history of the Telecommunications Act confirms that Congress intended E-Rate as a permanent, ongoing commitment, not a time-limited program subject to termination once basic connectivity targets are met. The Conference Report accompanying the Act states plainly:¹⁰

¹⁰ U.S. Congress, Conference Report on S. 652, *Telecommunications Act of 1996*, Report 104-458, 104th Cong., 2d Sess. (1996), pp. 132–133.
<https://www.congress.gov/104/crpt/hrpt458/CRPT-104hrpt458.pdf>.

"New subsection (h) of Section 254 is intended to ensure that health care providers for rural areas, elementary and secondary school classrooms, and libraries have affordable access to modern telecommunications services that will enable them to provide medical and educational services to all parts of the Nation. The ability of K-12 classrooms, libraries and rural health care providers to obtain access to advanced telecommunications services is critical to ensuring that these services are available on a universal basis. The provisions of subsection (h) will help open new worlds of knowledge, learning and education to all Americans — rich and poor, rural and urban. They are intended, for example, to provide the ability to browse library collections, review the collections of museums, or find new information on the treatment of an illness, to Americans everywhere via schools and libraries. This universal access will assure that no one is barred from benefiting from the power of the Information Age."

The Commission asks, "Given the substantial expansion of broadband access in schools and libraries over the last three decades, we seek comment on whether and to what extent the E-Rate program has fulfilled that mission and whether continued funding is consistent with Congress's original objective." ... "Should the E-Rate program be limited or sunset to reflect today's extensive connectivity rates?"

Given the E-Rate's successes, asking whether to limit or sunset the program is like asking whether, given the success of the American experiment, we should now limit or sunset it. We should not. We didn't turn off power plants once the country was wired for electricity, stop investing in roads once the interstate highway system was built, or shut off jet engines once a jet gets off the ground. The reality is, the E-Rate is the engine lifting educational opportunities, the

power plant behind emerging teaching improvements, and the road we take to ensure every child, regardless of income or geography, can benefit from the same learning opportunities.

Limiting or sunseting the program isn't just nonsensical from an educational, societal, or economic perspective; it is also prohibited under the law.

The E-Rate program is Congressionally mandated through Section 254 of the Telecommunications Act. The statute gives the Commission no authority to terminate the program, including (as the NPRM asks) after a certain period of time or after certain benchmarks are met. On the contrary, Section 254 defines universal service as “an evolving level of telecommunications services that the Commission shall establish periodically...taking into account advances in telecommunications and information technologies and services.”

Benton is surprised the Commission even asks such a basic legal question that is so statutorily obvious: the Commission has no authority to shut down, limit, or sunset a duly authorized statute.

Limiting or shutting down the E-Rate program is also contrary to President Trump's Executive Order 14277, Advancing Artificial Intelligence Education for American Youth,¹¹ which explains that one of the Administration's goals is to “invest in our educators and equip them with the tools and knowledge to not only train students about AI, but also to utilize AI in their classrooms to improve educational outcomes.” Disconnecting schools and then trying to teach students about artificial intelligence isn't intelligent at all. We cannot simultaneously elevate educational

¹¹ Exec. Order No. 14,277, Advancing Artificial Intelligence Education for American Youth, 90 Fed. Reg. 17,519 (April 28, 2025).

expectations for digital and AI literacy while stripping away the very digital tools that enable them.

In upholding the constitutionality of the Universal Service Fund, the Supreme Court's review of Section 254 strongly demonstrates that the Commission lacks authority to "sunset" the program.¹² Any effort to broadly limit or sunset the E-Rate, as the order contemplates, would be catastrophic, unlawful, and counter-productive. The Commission cannot decide, on its own, which laws to obey and which to ignore.

III. The E-Rate Program Has Delivered Affordable Access to High-Speed Broadband to and Within Schools and Libraries

Section 254(h) directs the Commission to ensure affordable access to advanced telecommunications services for schools and libraries, and the record demonstrates that the E-Rate program has fulfilled that mandate by delivering affordable connectivity to communities around the country. The E-Rate has improved the lives of a whole generation of American learners. The program has proven to be an effective learning accelerator and opportunity equalizer, and one of the most impactful and bipartisan provisions in the Telecommunications Act of 1996.

A. From 3% to 96%

In 1994, when connectivity support for schools was first proposed, only 3 percent of classrooms had dial-up internet access.¹³ Since then, the E-Rate has invested over \$69 billion to ensure

¹² *Federal Communications Commission v. Consumers' Research*.

¹³ *Modernizing the E-rate Program for Schools and Libraries*, WC Docket No. 13-184, 29 FCC Rcd 8870, 8875, ¶ 10 (July 23, 2014) ("First Modernization Order").

students and educators have high-speed internet access and Wi-Fi in every classroom.¹⁴ That investment has connected over 96 percent of schools and virtually all libraries to the internet. Markets did not solve that transformation. Schools and libraries are connected because Congress created a sustained affordability program that made connectivity financially viable for the institutions communities rely on.

As technology changed and connectivity demands grew, E-Rate withstood the test of time because the Commission modernized to support scalable, high-speed fiber and Wi-Fi, as the law envisioned. The Commission notes that “some data sources state that virtually all schools report having broadband connectivity.” However, that measure of success does not capture how many schools could maintain that connectivity without E-Rate discounts. The program is not a one-time infrastructure grant—it is an ongoing affordability mechanism. The connectivity it has produced is inseparable from the discounts that make it financially sustainable.

Over time, the program has become one of the nation’s most successful federal broadband initiatives: it currently serves over 54 million students, 106,00 schools, and 12,500 libraries.¹⁵

Critically, E-Rate has helped ensure we do not have a society of information haves and have-nots. The program has ensured that an isolated rural student, or an eager student from a disadvantaged urban district, can reach across their keyboard and access the same universe of knowledge as a child in the most affluent suburb. E-Rate has helped millions of children gain the

¹⁴ Markey, Edward J. "Sen. Markey Statement on FCC Vote to Review E-Rate Program, Threatening Internet Access for Millions of Students, Teachers, Schools, Libraries." Press release. June 25, 2026. <https://www.markey.senate.gov/news/press-releases/sen-markey-statement-on-fcc-vote-to-review-e-rate-program-threatening-internet-access-for-millions-of-students-teachers-schools-libraries>.

¹⁵ FCC, *The Universal Service Fund: How it impacts the United States* (Aug. 8, 2024), available at <https://docs.fcc.gov/public/attachments/DOC-404602A1.pdf>.

digital skills they need to help compete in today’s economy, and helped ensure that internet access is only as far away as your nearest library.

Despite this progress, important gaps remain: Too many schools still do not meet the Commission’s 1 Mbps/student learning goal.¹⁶ While 70 to 77 percent of public-school teachers assign online or technology-based homework,¹⁷ only 7 percent of school districts report that all students have adequate home internet for learning,¹⁸ and 64 percent of E-Rate applicants cite inadequate home internet as a significant issue in their communities.¹⁹ Project Tomorrow found that 18 percent of 9th–12th graders and 16 percent of 6th–8th graders report sometimes being unable to do schoolwork because they lack internet access outside of school, and that over 40 percent of Title I teachers do not assign work requiring internet access because they fear exacerbating inequalities.²⁰

In its 2025 *E-Rate Trends Report*, Funds for Learning found that 97.6 percent of district and library applicants said E-Rate funding is vital to their mission, with 96.2 percent agreeing the

¹⁶ State Educational Technology Directors Association. *The Universal Connectivity Imperative: Sustaining Progress to Close the Digital Access Divide in K–12 Education*. SETDA, January 2025. https://www.setda.org/wp-content/uploads/2025/01/SETDA_UCI-Report-2025_Official.pdf.

¹⁷ School on Wheels, The Impact of the Digital “Homework Gap” on our Students (Nov. 21, 2019), <https://schoolonwheels.org/the-impact-of-the-digital-homework-gap-on-our-students/>; Alia Wong, Why Millions of Teens Can’t Finish Their Homework (Oct. 30, 2018), <https://www.theatlantic.com/education/archive/2018/10/lacking-internet-millions-teens-cant-do-homework/574402/>.

¹⁸ See SETDA and CoSN Joint Response to the Senate USF Working Group <https://www.setda.org/wp-content/uploads/2025/09/SETDA-COSN-USF-WORKING-GROUP-RESPONSE-FINAL.pdf>

¹⁹ Funds for Learning. *2025 E-Rate Trends Report*. Funds for Learning, 2025. <https://www.fundsforlearning.com/trends-report/>.

²⁰ Project Tomorrow. (2023). *A special series of 2003–2023 reports*. <https://www.tomorrow.org/projects/speakup/2023reports/>

program is affordable and cost-effective.²¹ Applicants emphasize that while basic connectivity is widespread, ongoing E-Rate discounts (Category One for internet access and Category Two for internal Wi-Fi/networking) are essential to maintain and upgrade aging infrastructure.

Internet access is also essential for libraries and services. E-Rate support at libraries enables seniors to conduct telehealth appointments, veterans and jobseekers to search for and apply to jobs, adult learners to prepare for exams and write papers after their shift, and families to complete homework together after school.

B. The Definition of Educational Purposes

The Commission seeks comment on its previously established legal presumption “that activities that occur on library or school property serve an educational purpose and, therefore, are eligible for E-Rate funding.” All activities that are integral, immediate, and proximate to the education of students—whether or not they occur on school or library property, in the classroom, or support the ability to have classroom instruction—serve an educational purpose. The Commission has no expertise in determining what is “educational,” and local communities determine educational and instructional issues. The Commission should not substitute its values and limited view of education for parents' values or educators' expertise.

Strong support for this view comes from the agency that is, in fact, empowered to make such determinations. President Trump’s Education Secretary Linda McMahon has herself argued from the White House podium: “Education is local; it should be overseen locally by those who best

²¹ Funds for Learning. *2025 E-Rate Trends Report*. Funds for Learning, 2025. <https://www.fundsforlearning.com/trends-report/>.

know local needs.”²² A White House fact sheet highlights other leaders who make the same argument, including:

- Speaker of the House Mike Johnson, who says, “Education is best administered by parents and teachers and those closest to students, not bureaucrats in Washington, DC.”
- Heritage Foundation President Dr. Kevin Roberts says, [there is this] “false premise that unelected bureaucrats in Washington know better than parents and local communities when it comes to educating children.... I’ve seen firsthand what actually works: empowering parents, keeping decision-making at the local level.”
- Senator Pete Ricketts says, “Federal education policy should empower parents, states, and local school districts, not federal bureaucrats.”

This powerful support from the Executive Branch, Congress, and the public amply justifies retaining the current presumption.

C. Progress Enabled by Connected Learning

The success of the E-Rate program must be measured by connectivity, not learning outcomes.

If the Commission evaluates the program on learning outcomes—contrary to Congressional intent, Benton stresses—the FCC should note that connectivity can extend educational opportunity. The rural AP class gap is a clear demonstration of how broader imbalances can be addressed through the connectivity E-Rate supports. Only 50 percent of rural school districts offer AP courses, compared with 76 percent of urban and 85 percent of suburban districts,

²² Iowa’s News Now. “Linda McMahon says education is going back to states, ending ‘federal micromanagement.’” (November 20, 2025) <https://www.youtube.com/shorts/uXRe-pWwEOA>

limiting rural students' college pathways and lifetime earnings potential.²³ E-Rate-funded connectivity is helping close that gap. Without reliable broadband, students cannot access the online AP coursework and virtual dual enrollment programs that substitute for the specialized faculty rural schools cannot recruit or retain. E-Rate also helps level the playing field by providing school connectivity that may be lacking at home. While students in wealthier areas benefit from broadband at home, including improved SAT performance, students without internet access at home are at a disadvantage in completing homework and research.

The broader category of educational technology, which predates the internet, has also been shown to aid learning under appropriate teaching and learning conditions.²⁴ Studies have shown improvements in language comprehension and reading,²⁵ the positive impact of adaptive algebra tutoring software in high school classrooms,²⁶ and improved math skills in K-12 classrooms, especially for special needs students.²⁷

²³ National Center for Education Statistics, "Table 225.72. Among public schools with any students in grades 11 or 12, percentage of schools with students enrolled or classes offered in selected programs or courses, and enrollments in these programs or courses as a percentage of students, by locale: School Year 2020-21," available at https://nces.ed.gov/programs/digest/d23/tables/dt23_225.72.asp.

²⁴ Tamim, R. M., R. M. Bernard, E. Borokhovski, P. C. Abrami, and R. F. Schmid. "What Forty Years of Research Says About the Impact of Technology on Learning: A Second-Order Meta-Analysis and Validation Study." *Review of Educational Research* 81, no. 1 (2011): 4–28. <https://doi.org/10.3102/0034654310393361>.

²⁵ Silverman, R. D., Keane, K., Darling-Hammond, E., & Khanna, S. (2025). The Effects of Educational Technology Interventions on Literacy in Elementary School: A Meta-Analysis. *Review of Educational Research*, 95(5), 972-1012. <https://doi.org/10.3102/00346543241261073>

²⁶ Pane, John F., Beth Ann Griffin, Daniel F. McCaffrey, and Rita Karam. "Effectiveness of Cognitive Tutor Algebra I at Scale." *Educational Evaluation and Policy Analysis* 36, no. 2 (2014): 127–144.

²⁷ Li, Q., and X. Ma. "A Meta-Analysis of the Effects of Computer Technology on School Students' Mathematics Learning." *Educational Psychology Review* 22, no. 3 (2010): 215–243. <https://doi.org/10.1007/s10648-010-9125-8>. This study showed that the largest gains occurred when technology was paired with constructivist teaching approaches like active problem-solving and inquiry, underscoring the importance of an appropriate pedagogical approach.

At a time when Americans' satisfaction with the quality of K-12 education has fallen to a new low over the last two years, a new Gallup survey found that the only area where a majority of K-12 parents gave an excellent or good rating was on preparing students to adapt to new technologies, at 51 percent—earning the survey's highest rating.²⁸

D. Generational Impact That Powers Our Economy.

AI is now reshaping the economy at extraordinary speed. Sixteen Nobel laureates and more than 2,700 economists and artificial intelligence experts have warned that AI could transform the global economy more dramatically than the Industrial Revolution—and do so within a decade.²⁹

Demis Hassabis, Nobel laureate and head of Google DeepMind, puts it plainly: the transformation will be "10 times bigger than the Industrial Revolution, and maybe 10 times faster."³⁰ According to Pew Research Center, 71 percent of Americans now think artificial intelligence will lead to fewer jobs over the next two decades — up from 64 percent just two years ago—with concern rising sharply among adults under 30.³¹ These anxieties are translating directly into how families think about education: parents are increasingly prioritizing STEM

²⁸ Gallup Survey, Satisfaction With K-12 Education Hits New Low, September 7, 2026.
<https://news.gallup.com/poll/714017/satisfaction-education-hits-new-low.aspx>

²⁹ Brynjolfsson, Erik, Ajay Agrawal, Anton Korinek, Tom Cunningham, et al. "Statement on the Economics of Transformative AI." <https://www.wemustactnow.ai/>

³⁰ Rose, Steve. "Demis Hassabis on Our AI Future: 'It'll Be 10 Times Bigger Than the Industrial Revolution — and Maybe 10 Times Faster.'" *The Guardian*, August 4, 2025.
<https://www.theguardian.com/technology/2025/aug/04/demis-hassabis-ai-future-10-times-bigger-than-industrial-revolution-and-10-times-faster>.

³¹ McClain, Colleen, and Eugenie Park. "Young Adults in the U.S. Are Increasingly Wary of AI, Concerned It Will Take Jobs." Pew Research Center, August 18, 2026.
<https://www.pewresearch.org/short-reads/2026/08/18/young-adults-in-the-us-are-increasingly-wary-of-ai-concerned-it-will-take-jobs/>.

skills, digital literacy, and critical thinking as essential preparation for an AI-transformed economy.

The E-Rate program has already helped build the workforce that is driving this economy.

Because E-Rate covers more than 96 percent of public schools and serves approximately 54 million students annually,³² the program has reached virtually every public school in America for more than two decades. According to the Bureau of Labor Statistics, the U.S. civilian labor force numbers approximately 171 million workers.³³ By Benton's estimate, based on Bureau of Labor Statistics workforce data and E-Rate's documented school coverage rates, as many as 95 to 105 million current U.S. workers—representing approximately 55 to 62 percent of the civilian labor force—completed some or all of their K-12 education in E-Rate-supported schools. These are the Millennial and Gen Z workers now building, deploying, and operating the artificial intelligence-driven economy that is reshaping America. The E-Rate program did not just connect their schools to the internet—it connected them to the universe of knowledge, skills, and opportunity that made their contributions possible.

The program's reach extends beyond schools. Public libraries supported by E-Rate have served adult workers outside the core E-Rate generation, providing broadband access for workforce training, resume building, job applications, and the digital skill development that helps workers

³² Harrington, John. "E-Rate Keeps Schools and Libraries Connected." Funds for Learning, September 10, 2025. <https://www.fundsforlearning.com/news/e-rate-keeps-schools-and-libraries-connected/>.

³³ U.S. Bureau of Labor Statistics. "Table A-1. Employment Status of the Civilian Population by Sex and Age." *Employment Situation*, Economic News Release. <https://www.bls.gov/news.release/empsit.t01.htm> (last visited October 4, 2026).

adapt to a changing economy. E-Rate's investment in connectivity infrastructure underpins these gains.

The Trump Administration's Department of Education recognizes the need for access to digital platforms, and thus, the need for E-Rate support:³⁴

“Research and experience have demonstrated that technology is a valuable instructional tool when it supports strong pedagogy and effective teaching practices. Digital platforms can increase access to rigorous coursework, support differentiated instruction, provide timely feedback through high-quality assessments, and broadly expand opportunities for students.” [Emphasis added.]

Assistant Secretary Baesler further explains that thanks to educational technology:

“Students in rural and geographically isolated communities can access tutoring, world language instruction, dual enrollment opportunities, and specialized career and technical education that may not otherwise be available in their local schools. Digital learning can also help schools address persistent staffing challenges by connecting students to qualified instructors and coursework across district and state boundaries. ... Digital assessment tools can provide timely, reliable, and actionable information through diagnostic, formative, and summative assessments, enabling educators to identify learning needs earlier, monitor student progress more consistently, and adjust instruction to better meet individual student needs. When used thoughtfully, these tools also provide families with

³⁴ Baesler, Kirsten, Assistant Secretary, Office of Elementary and Secondary Education, U.S. Department of Education. "Dear Colleague Letter on Education Technology and Screen Time in Schools." August 20, 2026. <https://www.ed.gov/media/document/guidance-education-technology-and-screentime-schools-114386.pdf>.

clearer and more timely information about their child's progress, strengthening the partnership between home and school. ... Technology also increases access for students whose education needs require additional supports. Students with disabilities often rely on assistive technologies such as text-to-speech, speech-to-text, real-time captioning, and visual supports to access grade-level instruction. Virtual tutoring, adaptive instructional programs, and digital learning resources can provide individualized services, timely feedback, and additional instructional support that complements high-quality classroom teaching.” [Emphasis added.]

Overall, digital learning tools have transformed the way teachers teach, students learn, and libraries serve their communities. Digital learning has helped prepare kids for the future and lifted the economy. And E-Rate’s investment in connectivity infrastructure is the foundation on which these gains have been built. Despite these gains, E-Rate’s success should be measured by its ability to meet bandwidth demands and enable every student to benefit from digital learning, not by overall academic or economic outcomes.

IV. Why the U.S. Continues to Need the E-Rate: We Now Face a New Digital Learning Imperative

In a world where overall human knowledge is now doubling every 12 months,³⁵ where Nobel Laureates³⁶ and other leaders³⁷ tell us new technologies will have 10 times the impact of the Industrial Revolution and unfold at 10 times the speed, we need to use every tool in our toolbox to ensure our next generation is equipped with the skills they need for the jobs of the future. Digital learning and access to high-speed broadband matter more today than textbooks and chalkboards did in the 20th century.

The United States cannot afford to be left behind as other nations expand digital access for education. Around the world, countries are recognizing that these high-speed internet connections aren't just an educational supplement; they are a competitive necessity. Today's students aren't just competing with their peers from across the hall, across town, or across the country. They are competing with youth from across the globe.

³⁵ David Schilling, *Knowledge Doubling Every 12 Months, Soon to be Every 12 Hours*, Industry Tap (Apr. 2013).

³⁶ McKendrick, Joe. "Nobel Laureates Warn AI Could Transform the Economy Faster Than the Industrial Revolution." *Forbes*, July 15, 2026.
<https://www.forbes.com/sites/joemckendrick/2026/07/15/nobel-laureates-ai-economy-industrial-revolution-warning/>.

³⁷ Rose, Steve. "Demis Hassabis on Our AI Future: 'It'll Be 10 Times Bigger Than the Industrial Revolution — and Maybe 10 Times Faster.'" *The Guardian*, August 4, 2025.
<https://www.theguardian.com/technology/2025/aug/04/demis-hassabis-ai-future-10-times-bigger-than-industrial-revolution-and-10-times-faster>.

- South Korea is using ubiquitous 1 Gbps+ fiber connections to its schools and high-density Wi-Fi in every classroom to replace textbooks with personalized digital learning and energize a new generation of leaders.³⁸
- China's *Smart Education China* initiative is leveraging fiber and AI³⁹ to bridge its urban-rural educational gap and to leap ahead of us in driving the technologies of the future.⁴⁰
- Singapore established an EdTech Masterplan for using high-density, ultra-fast fiber networks and equipping every student with a personal device in an effort to give itself a leg up in the global economy and ensure "digitally-empowered, future-ready learners and innovators."⁴¹

These other nations do not view school connectivity as a one-time goal to be "finished" and then abandoned. They see it as an essential and evolving baseline infrastructure. As learning tools shift from static web browsing to cloud platforms, multi-modal AI, HD streaming video, and

³⁸ Ministry of Education (Republic of Korea). (2023). *AI Digital Textbook Promotion Plan*. Sejong: Ministry of Education. <https://english.moe.go.kr/boardCnts/viewRenewal.do?boardID=254&boardSeq=95291&lev=0&m=0202&opType=N&page=2&s=english>

³⁹ This filing uses the term "artificial intelligence (AI)" to maintain consistency with the terminology used throughout the Commission's NPRM, which uses "artificial intelligence" and "AI" throughout. Benton notes that the September 29, 2026 Executive Order on AI directs executive branch agencies to use "Super Intelligence" and "SI" in place of "artificial intelligence" and "AI" in official documents. See Exec. Order No. 14,434, Inaugurating the Era of Super Intelligence, 91 Fed. Reg. 63,129 (Oct. 2, 2026). As a non-governmental party filing comments in a Commission proceeding, Benton uses the terminology of the record document to which it responds.

⁴⁰ Yang, Y., & Peters, M. A. (2026). China's 2025 White Paper on Smart Education: Governance Logic, Policy Design, and International Relevance. *International Journal of Chinese Education*, 15(1). <https://doi.org/10.1177/2212585X251413788>.

⁴¹ Singapore Ministry of Education. "Transforming Education through Technology Masterplan 2030." Last updated April 24, 2026. <https://www.moe.gov.sg/education-in-sg/educational-technology-journey/edtech-masterplan>.

interactive virtual environments, global peers are continuously upgrading school fiber capacity to avoid network bottlenecks in the classroom.

But in the U.S., our schools, despite their progress, still lack the necessary speed to compete and win. If we want students from Buckeye to compete with students from Shanghai for the jobs and industries of the future, we must ensure that America has the smartest, most technology-rich classrooms on the planet. We can't out-compete or out-innovate them if we aren't also out-educating them.

Today, as connected technologies become even more transformative, the need for broadband capacity is even more vital.

AI is reshaping not just the economy and the workplace but also how parents think about their children's education and future. According to Pew Research Center, 71 percent of Americans now think AI will lead to fewer jobs over the next two decades—up from 64 percent just two years ago—with concern rising sharply among adults under 30.⁴² These anxieties are translating directly into how families think about education: parents are increasingly prioritizing STEM skills, digital literacy, and critical thinking as essential preparation for an AI-transformed economy. The E-Rate program is the foundation that makes this preparation possible—ensuring that every student, regardless of zip code or family income, has access to the connectivity and digital learning tools they need to compete.

⁴² McClain, Colleen, and Eugenie Park. "Young Adults in the U.S. Are Increasingly Wary of AI, Concerned It Will Take Jobs." Pew Research Center, August 18, 2026.
<https://www.pewresearch.org/short-reads/2026/08/18/young-adults-in-the-us-are-increasingly-wary-of-ai-concerned-it-will-take-jobs/>.

To help their children get ahead, parents strongly support what the E-Rate delivers.

- **83% of parents want policymakers to ensure that every student has high-speed broadband and the learning devices they need, so they can have equal access to the online universe of knowledge** and are able to obtain the education they need to get ahead in life, according to a Trusted Future survey of parents.⁴³
- **76% want every school to offer classes on coding** so every child, regardless of income or geography, will be able to take advantage of good-paying technology jobs in their communities, according to Trusted Future's survey of parents.⁴⁴
- **9 out of 10 parents want schools focused on preparing students for the jobs of the future**, and increasingly that means learning how to use technology and AI responsibly, according to a recent National Parents Union survey.⁴⁵

We simply can't prepare our kids to compete in the changing 21st-century job market by leaving them stranded with 20th-century technology skills and speeds.

America's CEOs get it too. America's leading CEOs, backed by an unprecedented group of more than 500 business, education, and nonprofit leaders, want to ensure every student has a chance at digital success.⁴⁶ They estimate that just one high school computer science course boosts wages

⁴³ Trusted Future. "Polling Memo: Parents' Views on Children's Digital Privacy and Safety." 2022. <https://trustedfuture.org/wp-content/uploads/2022/07/Trusted-Future-Childrens-Privacy-and-Safety-Polling-Memo.pdf>.

⁴⁴ Id.

⁴⁵ National Parents Union. "Where parents actually stand on AI. Protect them. Prepare them. Don't ban it and walk away." <https://parentsonai.org/#1>

⁴⁶ Code.org. "Make Computer Science and AI a High School Graduation Requirement." Open letter. <https://code.org/promote>

by 8 percent for all students, regardless of career path or college attendance. Overall, they estimate we can unlock \$660 billion in opportunity for everyday Americans, close wage gaps, and ensure our children are prepared for tomorrow's challenges and opportunities by enabling high school computer science courses—something E-Rate helps make possible. Studies also show computer science classes can level the playing field in schools. The CEOs argue that it's also about keeping America competitive. Countries like Brazil, China, South Korea, and Singapore have already made computer science mandatory for every student, but the United States is falling behind and faces a daunting digital skills gap.

A. E-Rate is More Vital, and More Needed, Than Ever

The E-Rate is more vital than ever—especially as the benefits of connected learning continue to increase. Ensuring connectivity in schools and libraries is not a one-time objective: it is a continuous, growing and evolving responsibility that must keep pace with the demands of digital learning.

E-Rate has driven amazing progress in connecting students to digital learning opportunities, especially after the Commission's modernization orders. The E-Rate modernization targets, based on SETDA recommendations, prioritize high-speed broadband for schools and libraries, aiming for at least 100 Mbps per 1,000 users (short-term) and 1 Gbps per 1,000 users (long-term).

B. Access in Schools is Still Unequal

The Commission estimates that 78 percent of all U.S. school districts reportedly have met the Commission's bandwidth goal of 1 Gbps per student, leaving many students without sufficient

school bandwidth.⁴⁷ The Commission's most recent Section 706 report also found that roughly half (48%) of students lacked access to at least 1 Mbps per student goal, leaving millions of students without adequate bandwidth.⁴⁸

As learning technologies have continued to advance, and the number of classroom-connected devices has increased, the bandwidth needs have grown too. SETDA recommends districts now provision a scalable broadband infrastructure that can meet today's and tomorrow's needs. For the 2023-24 school year, SETDA, for example, recommended:⁴⁹

- Small Districts (fewer than 1,000 users) – At least 2.8 Mbps per user with a minimum of 300 Mbps per district
- Medium Districts (approx. 3,000 users) – At least 2 Mbps per user
- Large Districts (more than 10,000 users)– At least 1.4 Mbps per user

For WAN connectivity, SETDA recommends that districts have the capability to support WANs with 10 GB capacity per 1,000 users, where users are administrators, teachers, students, staff and guests.⁵⁰

⁴⁷ *Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*, 2026 Broadband Deployment Report, FCC 26-55 (released August 14, 2026) (2026 Broadband Deployment Report), available at <https://docs.fcc.gov/public/attachments/FCC-26-55A1.pdf>.

⁴⁸ 2026 Broadband Deployment Report

⁴⁹ Fox, C., Jones, R. (2019). *The Broadband Imperative III: Driving Connectivity, Access and Student Success*. Washington, DC: State Educational Technology Directors Association (SETDA). https://www.setda.org/wp-content/uploads/2019/11/SETDA_Broadband-Imperative-III_110519.pdf

⁵⁰ Id.

Benton expects classroom bandwidth needs to continue to increase over time as learning technologies continue to advance in capability, as instructional videos increasingly are made available in 4K formats, as learning technologies increasingly take advantage of AI and the cloud, and as classroom connected instructional devices place additional bandwidth demands—like increasingly sophisticated connected microscopes, digital whiteboards, and wireless sensor kits that act as portable probes for science class.

In addition, networks are no longer supporting only student laptops. The Consortium for School Networking (CoSN) 2025 State of EdTech report highlights that security cameras (HD/4K video streams), electronic access controls, environmental sensors, and smart HVAC systems operate as non-stop "always-on" network consumers, raising baseline bandwidth requirements even during off-peak hours.⁵¹

C. E-rate Supported Networks Enable School Operations

The broadband networks that E-Rate supports also form the backbone of school security systems and administration systems. Badging access systems, security cameras, visitor management systems, intrusion detection systems, and VoIP systems (which allow calls to be placed from anywhere with an internet connection) require internet access.

A Center for Democracy & Technology survey found that:⁵²

⁵¹ CoSN. "2025 State of EdTech District Leadership" https://www.cosn.org/wp-content/uploads/2025/05/EdTechLeadership_2025_F2.pdf

⁵² Laird, Elizabeth, Maddy Dwyer, and Kristin Woelfel. *Out of Step: Students, Teachers in Stride with EdTech Threats While Parents Are Left Behind*. Center for Democracy & Technology, January 2025. <https://cdt.org/wp-content/uploads/2024/12/CDT-Out-of-Step-010225.pdf>.

- 31% of teachers report their school uses cameras with facial recognition technology to check who has entered a school building, identify irregular movements, and potentially unauthorized individuals, etc.
- 24% of schools use wearable panic buttons for students, teachers, and/or staff to report emergency safety incidents.
- 22% of schools use drones/drone-mounted cameras to patrol school grounds for security reasons.

Each of these connected device use-case scenarios, intended to further improve school safety, also increases bandwidth demands on school networks.

D. Bandwidth Needed for Testing

Likewise, instructional testing has now largely moved online. But to administer such testing, schools need to have a network that can support a 1:1 device-student ratio. Without robust networks, network latency spikes or bandwidth bottlenecks during high-stakes online testing can cause testing platforms to freeze, time out, or disconnect entirely. These online tests are no longer simple multiple-choice tests; modern state assessments (such as Smarter Balanced, PARCC, or state-specific exams) rely heavily on technology-enhanced items. For example, assessments may now feature embedded HD video clips, interactive simulation tasks, graph manipulation, and audio passages for reading comprehension. When an entire grade band or school starts an assessment at the beginning of the day, the sudden increase in concurrent bandwidth demand can saturate Wi-Fi Access Points (WAPs) and school bandwidth if capacity is under-provisioned.

To keep up with the increasing adoption of technology in their classrooms, schools need to continue to grow their bandwidth. Most educators have realized this and continue to position their schools for the future. Continued investment in high-density, modern, enterprise-grade Wi-Fi access points throughout classrooms and libraries is essential to enable robust connections and limit packet drops. For example, in 2020, the median bandwidth per student in U.S. schools was 0.93 Mbps.⁵³ By 2023, that number jumped to 1.80 Mbps.⁵⁴ This dramatic increase in bandwidth availability reflects the growing importance of digital learning technologies and applications in classroom pedagogy, as well as state and school district leaders' prioritization of connectivity.

E. As Technology Evolves, So Do Connectivity Needs

Section 254(c)(1) establishes the central animating principle of universal service as “an evolving level of telecommunications services.” The statute recognizes that technologies evolve, capabilities grow, and bandwidth demands increase. As older Wi-Fi access points become bottlenecks for learning, newer Wi-Fi standards emerge, like Wi-Fi 7, that use limited spectrum more efficiently, improve management (including which devices can connect), and make multi-device connections more seamless. This is an example of what the statute defines as “an evolving level of telecommunications services.”

⁵³ Computer Integration Technologies. "Future-Proofing Your Wireless Network for Emerging K-12 Learning Applications." CIT Blog, March 6, 2025. <https://www.citsolutions.net/future-proofing-your-wireless-network-for-emerging-k-12-learning-applications/>. See also: Connected Nation and Funds for Learning. *2023 Report on School Connectivity*. Connect K-12 Program, 2023. Available at connectk12.org.

EducationSuperHighway. *State of the States Report 2022*. EducationSuperHighway, 2022. Available at educationsuperhighway.org.

⁵⁴ Id.

As discussed above, the word “evolving” connotes expansion and is the antithesis of an endpoint. Indeed, the NPRM does not suggest that technology has stopped evolving or that bandwidth demand is shrinking. In fact, as the Administration often points out, technology is now evolving at an ever-accelerating rate. For example, as the President wrote in Executive Order 14277, “To ensure the United States remains a global leader in this technological revolution, we must provide our Nation’s youth with opportunities to cultivate the skills and understanding necessary to use and create the next generation of AI technology.”⁵⁵ As technology accelerates, he committed the Administration to “equip our students with the foundational knowledge and skills necessary to adapt to and thrive in an increasingly digital society.” Regarding K-12 digital learning, the President ordered that, “To the extent practicable and as consistent with applicable law, agencies shall prioritize funding for such purposes when it would further the aims of the program for which funding is available.”

While AI use is becoming commonplace in K-12 schools (68% of educators report using it at least occasionally, and 73% of parents say the same of their children), about a third of educators and K-12 parents support restrictions on AI use in school.⁵⁶ Nonetheless, given the priority the President and his administration have put on the technology, Benton notes that increasing its use will continue to demand more school bandwidth.

The Commission’s recently released 2026 Section 706 Report declined to set a new longer-term benchmark, indicating it believed a long-term goal “could ‘skew[] the market by unnecessarily

⁵⁵ Exec. Order No. 14277, *supra*

⁵⁶ Instructure. (2026, July). *New Instructure research shows the current state of AI in education: Formal training and support for educators*. <https://www.instructure.com/press-release/new-instructure-research-shows-current-state-ai-education-formal-training-and-support>

potentially picking technological winners and losers.”⁵⁷ However, this is flatly at odds with reality. To avoid skewing and picking losers, then not updating the speed goal is more likely to skew learning outcomes between the well-connected and the least connected and to *unnecessarily pick digital winners and losers among America’s children*. These are the kind of key disparities the E-Rate was designed to overcome.

Given that the Commission is updating the record here, Benton believes the Commission should take this opportunity to update its school connectivity targets as broadband capacity needs and demands continue to increase. The Commission can and should set new, technology-agnostic but ambitious long-term connectivity goals for the program.

V. Head Start and Pre-Kindergarten Classrooms are Important Centers of Learning

The Commission seeks “comment on whether Head Start and pre-kindergarten students should continue to receive E-Rate program support.” The answer is: Yes, they should and must.

Their eligibility for E-Rate generally depends on whether individual state laws include Head Start and/or pre-kindergarten in their definition of an elementary school and whether the facility is considered a school. As the Commission notes, 29 states and territories currently include Head Start facilities and students, and 34 states and territories include pre-kindergarten facilities and students in their definition of elementary education and elementary schools.

⁵⁷ 2026 Broadband Deployment Report

The Commission cannot and should not pre-empt a state’s definition of educational institutions and cannot change the statutory definition of elementary and secondary schools found in 20 U.S.C. § 7801.

For Head Start and pre-kindergarten children, appropriate early technology use can help ensure they keep up with their peers as they transition to a K-12 setting. Appropriate technology use can not only help children but also help pre-kindergarten and 250,000 Head Start staff connect, use online instructional resources, improve staff training, and support school administration. These connections have also proven to be essential for promoting basic digital literacy for both students and parents. Head Start programs also often teach parents how to protect children online and use technology in age-appropriate ways.⁵⁸ Supporting parents can be just as important as educating children. The Erikson Institute found that parents of young children identified 3 groups of people they trust for technology advice: pediatricians, family members, and early childhood teachers.⁵⁹ The Erikson Institute also found parents believe that technology supports school readiness and impacts success in school. Congressionally mandated research found that altogether, Head Start children have benefited across every domain of child outcomes assessed, including language, cognition, social-emotional, and health outcomes.⁶⁰

⁵⁸ National Head Start Association. “Head Start: Uniquely Positioned to Close the Digital Divide” (2021) <https://nhsa.org/wp-content/uploads/2022/04/2021-NHSA-Digital-Divide-Brief.pdf>

⁵⁹ Erikson Institute. “Technology and Young Children in the Digital Age” (October 2016) <https://www.erikson.edu/wp-content/uploads/2018/07/Erikson-Institute-Technology-and-Young-Children-Survey.pdf>

⁶⁰ Chazan Cohen, Rachel. "Unpacking How Comprehensive Services in Early Head Start Lead to Impacts for Children & Families." Presentation, National Head Start Association Early Head Start Hill Briefing, September 6, 2022. National Head Start Association. <https://nhsa.org/wp-content/uploads/2025/08/9.6.22-NHSA-EHS-Hill-Briefing.docx.pdf>.

The President’s Executive Order 14277 on Advancing Artificial Intelligence Education for American Youth asserts that “AI education in kindergarten through twelfth grade (K-12) is critical”—making clear the belief that early access to new technologies in school isn’t just beneficial, but “critical.”⁶¹

Likewise, in examining early childhood education and technology, the RAND Corporation reported that, “Technology literacy plays an important role in a child’s ability to succeed in school and later life,” and found, “[e]arly childhood education can play a valuable role in ensuring that low-income children can access technology and learn how to use it.”⁶²

Furthermore, a 2022 Child Development Association report outlined how a Head Start program in Connecticut benefited from digital education.⁶³ The report found: “Preschoolers from low-income families in an urban Head Start center who received daily access to computers and were supported by an adult mentor showed more positive attitudes toward learning, greater self-confidence and increased kindergarten readiness skills than children who had computer access but no support from a mentor.”

The Commission should not unplug children from the tools they need to learn and thrive.

⁶¹ Exec. Order No. 14277, *supra*.

⁶² Daugherty, Lindsay, Rafiq Dossani, Erin-Elizabeth Johnson, and Mustafa Oguz. *Using Early Childhood Education to Bridge the Digital Divide*. RAND Corporation, PE-119. Santa Monica, CA: RAND Corporation.

https://www.rand.org/content/dam/rand/pubs/perspectives/PE100/PE119/RAND_PE119.pdf.

⁶³ Washington, Valora, Ph.D, and Yarkony, Lisa. *Tech for Every Tot: Bridging the Digital Divide*. Council for Professional Recognition. Washington, D.C., December 2018.

https://www.cdacouncil.org/storage/documents/Media_Room/Tech_for_Every_Tot.pdf

VI. The Commission Should Keep Children Connected and Protected

Benton believes it's more important than ever that our students be both connected and protected.

Benton has been engaged with the E-Rate program and efforts to connect schools, libraries, and students for more than 30 years. While technology has changed dramatically in that time, the importance of protecting children has not. There have been three especially notable constants:

1. How best to protect kids online is one of the hardest and most important policy issues facing innovators, policymakers, educators, and parents alike.
2. Policymakers often look for simple silver bullet solutions to what has consistently been an especially complex, multi-faceted set of issues.
3. Silver bullet solutions don't exist. Progress requires shared responsibilities.

Too often, overly simplistic solutions are offered to protect children, which in many cases are:

- ineffective or unworkable,
- can create substantial new privacy risks for all users and especially children,
- raise important constitutional and legal concerns,
- don't effectively address the fundamental issues of how we create safer spaces for children online.

If we want smarter kids, we also need smarter solutions, solutions that not only connect and protect kids, but also teach them appropriate online behavior and prepare them with skills for the jobs and industries of the future. As a society, we need to grapple with how we can foster safe, healthy, and responsible relationships with technology—for both students and educators—while also ensuring learners are equipped for a digital future.

As educational technology has become an integral part of the way teachers teach and students learn, technology and connectivity have helped schools personalize instruction, expand learning opportunities, reduce learning gaps, and prepare students for success in the jobs of the future. However, largely driven by trends in children’s personal use of technology, parents, educators, policymakers, and community leaders have raised concerns about the growing role of technology in our children's lives. Key questions about children’s screen time, their digital well-being, privacy, and the educational value of technology have all become part of a broader national conversation.

Parents, educators, librarians, pediatricians, and state and local leaders are appropriately engaged in addressing concerns about children’s mental health, online safety, and healthy technology use. Many of these issues are far beyond the Commission’s area of expertise. The Commission also attempts to insert itself into the role of parent, teacher, librarian, or school board. Conversations on these issues are often more appropriate in homes, classrooms, school board meetings, pediatricians’ offices, and with state, local, and federal legislators.

Benton generally supports the American Academy of Pediatrics (AAP) recommendations for children's use of technology, which focus on the overall quality of digital interactions and healthy habits rather than strict universal time limits.⁶⁴

“When this digital ecosystem is designed with children’s unique developmental needs in mind, it can support learning and well-being. In contrast, digital ecosystems that prioritize

⁶⁴ Munzer T, Parga-Belinkie J, Milkovich LM, et al; American Academy of Pediatrics, Council on Communications and Media. Digital Ecosystems, Children, and Adolescents: Policy Statement. *Pediatrics*. 2026;157(2):e2025075320 <https://watermark02.silverchair.com/pediatrics.2025075320.pdf>. AAP outlines a set of health habits and divides up appropriate behaviors between key actors.

engagement and commercialization often encourage prolonged use, which in turn can displace healthy behaviors (e.g., movement behaviors, sleep), and contribute to negative outcomes. ... Given the interconnected nature of these influences and systems, ‘media and children’ cannot be viewed solely through the lens of individual child behaviors or screen limits alone.”

However, Benton has concerns that, in some cases, the Commission seems to be going far beyond its statutory authority and subject-matter expertise to second-guess the role of teachers, parents, librarians, communities, and their elected officials.

Before taking any new steps, Benton believes the Commission should keep in mind threshold questions about its own narrow mandate.

The Commission needs to distinguish between:

- E-Rate funded networks where CIPA applies versus private networks where it doesn’t.
- The instructional use of technology at school versus the personal, recreational, or at-home use of computers and devices, which E-Rate funding does not support and for which the child/parent relationship prevails.
- The appropriate and legally constrained role of the Commission in managing a broadband connectivity support mechanism versus the Congressionally delegated instructional roles of states, localities, and educators. CIPA specifically confines the Commission to requiring technical safeguards (blocking/filtering) and prevents it from determining what constitutes inappropriate access, which localities determine.
 - **CIPA is clear:** *“A determination regarding what matter is inappropriate for minors shall be made by the school board, local educational agency, library, or*

other authority responsible for making the determination. No agency or instrumentality of the United States Government may— (A) establish criteria for making such determination; (B) review the determination made by the certifying school, school board, local educational agency, library, or other authority; or (C) consider the criteria employed by the certifying school, school board, local educational agency, library, or other authority in the administration of subsection (h)(1)(B).” [Emphasis added.]

- The role of government as a telecommunications regulator versus the role of parents in raising their children. The government should not use its decision-making authority to override, take away, replace, or otherwise limit parents' choices and decision-making authority in how they raise their children.
- The best available scientific research and the use of fact-based, data-driven decision-making, as the Every Student Succeeds Act (ESSA) requires.
- Evidence that seemingly provides a correlative link versus evidence that establishes scientifically proven causal links.
- What the Commission has laid out in this docket, and the Commission’s limited authority under the law.

The U.S. Department of Education recently released new guidance on the responsible use of technology in the classroom.⁶⁵ The guidance is designed to help states, school districts, educators, families, and education technology providers make informed decisions about

⁶⁵ Baesler, Kirsten, Assistant Secretary, Office of Elementary and Secondary Education, U.S. Department of Education. "Dear Colleague Letter on Education Technology and Screen Time in Schools." August 20, 2026. <https://www.ed.gov/media/document/guidance-education-technology-and-screentime-schools-114386.pdf>.

responsible technology use in classrooms. The U.S. Department of Education urges states to pair innovation with evidence, educator judgment, transparency for parents, and a relentless focus on student outcomes. As the Department notes, “[t]he same tools that can distract during recreational use can also expand access to advanced courses, support students with disabilities, and help close learning gaps, when used wisely.”

We can protect kids without sacrificing student privacy, limiting digital learning opportunities, or broadening digital inequities—and do so without the Commission extending its authority beyond the plain text of the statute.

A. Parental Priorities: Balancing Connectivity with Safety

Parents are indeed concerned about their children’s social media usage, its addictive potential, and its potential impact on teens’ privacy and mental health. But surveys also show that parents want a balanced approach to technologies that ensures their children are both connected and protected, an approach that can simultaneously protect children from inappropriate content without blocking their ability to learn, create, and connect.

Parents’ views are often nuanced. While parents see social media as negatively impacting their children’s lives, they also see cell phones as important communication devices, and they want their children to be tech-savvy.

To help their children get ahead, parents strongly support what the E-Rate delivers.

- **83% of parents want policymakers to ensure that every student has high-speed broadband and the learning devices they need, so they can have equal access to the**

online universe of knowledge and are able to obtain the education they need to get ahead in life, according to a Trusted Future survey of parents.⁶⁶

- **76% want every school to offer classes on coding** so every child, regardless of income or geography, will be able to take advantage of good-paying technology jobs in their communities, according to Trusted Future's survey of parents.⁶⁷

A recent National Parents Union survey found:⁶⁸

- **9 out of 10 parents want schools focused on preparing students for the jobs of the future**, and increasingly that means learning how to use technology and AI responsibly.
- Three-quarters of parents also said their schools' device use is already at about the right level.
- Half of parents say that being skilled with AI tools will be essential or very important to their child's future career.
- Sixty-three percent say that teaching students how to use AI effectively should be a focus for the next school year.
- Only 1% of parents said they wanted zero screen time in schools

⁶⁶ Trusted Future. "Polling Memo: Parents' Views on Children's Digital Privacy and Safety." 2022. <https://trustedfuture.org/wp-content/uploads/2022/07/Trusted-Future-Childrens-Privacy-and-Safety-Polling-Memo.pdf>.

⁶⁷ Id.

⁶⁸ National Parents Union. "Where parents actually stand on AI. Protect them. Prepare them. Don't ban it and walk away." <https://parentsonai.org/#1>

Surveys find parents and families want more information on parental tools, and prioritize digital literacy in their children’s education.

- 83 percent of families want their schools to provide more information on how to use digital tools to support their children’s learning, according to a survey by Project Tomorrow.⁶⁹
- 88% of parents believe that knowledge of AI will be crucial in their child’s future education and career.⁷⁰

But Americans don’t trust the federal government (and by extension the Commission) or social media companies to set the rules:

- 79% of Americans don’t trust social media companies, but 73% don’t trust the federal government’s efforts to restrict social media use either.⁷¹
- By contrast, Americans do trust teachers (56%) and parents (69%) to make decisions about children’s social media use.⁷²

In this proceeding, the Commission should focus primarily on ensuring the E-Rate delivers sufficient bandwidth to enable teachers to teach and students to learn as effectively as possible,

⁶⁹ Project Tomorrow. (2023). *A special series of 2003–2023 reports*.

<https://www.tomorrow.org/projects/speakup/2023reports/>

⁷⁰ Samsung. “88% of U.S. Parents of Gen Alpha & Gen Z Students Say AI Will Be Crucial to Their Child’s Future Success.” (September 18, 2024) <https://news.samsung.com/us/88-percent-us-parents-gen-alpha-gen-z-students-say-ai-crucial-to-childs-future-success-samsung-solve-for-tomorrow/>

⁷¹ Foundation for Individual Rights and Expression. National Speech Index: April 2026 Topline Results. (May 7, 2026) <https://www.fire.org/research-learn/national-speech-index-april-2026>

⁷² Id.

and on ensuring schools have a process to prevent students from accessing harmful content on their networks, as CIPA requires.

However, because there is more to making the internet a good place for children than just protecting them from objectionable content, it is also important to boost digital literacy and digital skill-building efforts in the classroom to help kids learn about the online world in a way that helps them become productive digital citizens as required by the Protecting Children in the 21st Century Act.⁷³ Children need to be taught basic cyber-savvy skills that help them recognize potential threats, create strong passwords, and avoid strangers, scams, and malicious links online. They also need to understand responsible online behavior, build critical thinking skills, and learn what information can be trusted online and what can't. Educators and experts are best suited to develop these educational and instructional programs.

VII. The Commission Should Reject Imposing Arbitrary Federal Screen-Time Learning Limits

The Commission cannot and should not set arbitrary limits on how much time students can spend learning digitally. Even setting aside the fact that this is a terrible policy choice, the Commission has no authority to do so.

The Commission asks, “should the Commission impose per-day limits on the number of hours children or minors can use E-Rate-funded networks and services?” And “Would the per-day limit

⁷³ Pub. L. No. 110-385, Title II, 122 Stat. 4096 (2008) (*Enacted as Title II of the Broadband Data Improvement Act on October 10, 2008*).

apply solely to E-Rate-funded networks and services accessed in a physical classroom or library building?”

Even if the Commission had statutory authority over screen time, limiting digital education would be a catastrophic mistake. Benton supports efforts to reduce low-value screen use in schools and, like the American Academy of Pediatrics (AAP), believes students deserve distraction-free time to learn in school; evidence-based school policies, with thoughtful and consistent implementation, teacher support, and technology design changes, can minimize technological distractions.⁷⁴

But not all screen time is the same, and not every screen should be viewed as serving the same purpose. Recreational technology and education technology are not synonymous. While excessive recreational screen time has raised important questions for parents and policymakers that deserve thoughtful discussion, educational technology, when implemented effectively, helps schools personalize instruction, expand access to learning opportunities, support educators, reduce learning gaps, and prepare students for the jobs of the future.

Time only measures minutes; it doesn’t measure impact. The broad ways that technology has now been integrated into the learning process (as described above) illustrate why education technology should not be evaluated solely by the amount of time students spend using it.

Instead of setting time-based targets, Benton believes educators should ensure that **every** student’s use of technology has a clear instructional purpose, maintains student safety, aligns

⁷⁴ Munzer, Tiffany, Joanna Parga-Belinkie, Libby Matile Milkovich, Suzy Tomopoulos, Taiwo Ajumobi, Corinn Cross, Roslyn Gerwin, Sheri Madigan, and Council on Communications and Media. "Digital Ecosystems, Children, and Adolescents: Policy Statement." *Pediatrics* 157, no. 2 (2026): e2025075320. <https://doi.org/10.1542/peds.2025-075320>.

with local priorities, and demonstrably enhances learning outcomes. But the Commission cannot and should not establish these requirements. The Commission lacks the authority and the expertise to set limits on the amount of digital “learning time” for America’s students or to set instructional parameters.

Locally, technology use is and should remain centered on learning. States, school districts, and educators are best positioned to determine when technology or textbooks should be used and to deploy them when they enhance, expand, personalize, or increase access to education. The Commission lacks the authority and expertise to make these decisions, and local communities, with input from educators and parents, are best positioned to do so.

As the Administration explained in the Department of Education’s August 2026 letter on screen time in schools: “The U.S. Department of Education believes **these decisions are best made by states and local communities, with input from parents and teachers.**”⁷⁵[Emphasis added.]

Nowhere does the Education Department suggest that it, or the Commission, has the authority or the need to solve this problem at the federal level. And when these decisions are made locally, the Department of Education also explains that “education policymaking should focus on educational value rather than screen exposure alone.”

As CoSN has found, many local screen time limits have become unimplementable because they never distinguish between categories of technology use.⁷⁶ CoSN recommends local definitions

⁷⁵ Baesler, Kirsten, Assistant Secretary, Office of Elementary and Secondary Education, U.S. Department of Education. "Dear Colleague Letter on Education Technology and Screen Time in Schools." August 20, 2026. <https://www.ed.gov/media/document/guidance-education-technology-and-screentime-schools-114386.pdf>.

⁷⁶ CoSN. *From Screen Time Mandates to Purposeful Technology Policies and Guidance: A CoSN Guide for District Leaders*, Extended Executive Summary, Version 1.0. CoSN, Summer 2026.

that differentiate between “instructional screen time, purposeful educational technology, passive and active use, school-issued versus personal devices, assistive and accessibility technology, digital assessment, age-appropriate use, and low-value use.” CoSN also cautions that overly broad restrictions on district-managed instructional technology can have unintended consequences, including, “reduced supervision, increased privacy exposure through shadow technology use, widening access gaps, barriers for students with disabilities, loss of instructional flexibility, lost opportunities to teach digital citizenship, inconsistent implementation and added teacher workload, financial and operational costs, weakened continuity of learning, and workforce readiness gaps.”

Local Community-Based Decisions. Localities are actively working through these issues.

Schools can already manage low-quality screen use and are doing so at the local level. Because school districts vary widely in student needs, grade configurations, instructional priorities, staffing, infrastructure, broadband access, and assessment criteria, a single universal limit on digital “learning time” is unworkable. Local decision-making—shaped by direct input from educators, families, and students—serves as both a vital responsibility and a core strength.

Under CIPA, Congress entrusted local school boards—who answer directly to their communities—with defining what constitutes “inappropriate matter” for their students, recognizing that community standards vary across the country. As Section 254(l)(2) of the statute states:

https://www.cosn.org/wp-content/uploads/2026/08/CoSN-Screen-Time-Mandates-to-Purposeful-Tech-ExecSumm-0826_v4.pdf.

*"A determination regarding what matter is inappropriate for minors shall be made by the school board, local educational agency, library, or other authority responsible for making the determination."*⁷⁷

In addition, to ensure that federal administrative agencies (such as the Commission) do not overreach, Congress added an express prohibition clause directly following the local determination language:

"No agency or instrumentality of the United States Government may-

(A) establish criteria for making such determination;

(B) review the determination made by the certifying school, school board, local educational agency, library, or other authority; or

*(C) consider the criteria employed by the certifying school, school board, local educational agency, library, or other authority in the administration of subsection (h)(1)(B)."*⁷⁸

This statutory bar prevents federal regulators from creating standardized content tests, setting national instructional rules, or revoking E-Rate funds based on whether the federal government agrees with a local school board's definition of "inappropriate" matter.

Furthermore, CIPA contains explicit provisions allowing local administrators or teachers to disable or adjust filters for adults conducting bona fide research or for legitimate educational purposes, reinforcing that individual educators retain operational discretion in the classroom.

⁷⁷ 47 U.S.C. § 254(1)(2) (Emphasis added).

⁷⁸ Id. (Emphasis added.)

The Commission should not replace a parent’s decision-making authority or exceed its authority by attempting to apply time limits to personal devices a child may bring to school. Blanket limits could, for example, harm a diabetic student who uses their personal phone to monitor glucose levels, limit a parent's ability to communicate with their child in an emergency, or even coordinate pick-up times after school.

Screen Time Limits in Libraries: The Commission seeks comment on screen time limits for library patrons. The Commission has no authority under 47 U.S.C. § 254(h)(6) to set the hours a library patron can read a book, whether it is in digital or analog form, or to set any other restrictions beyond the plain language in CIPA.

A. Parents Can Already Leverage Parental Controls to Limit School Screen Time

Given the rapidly advancing tools that give parents control over who, what, when, and how they can keep their kids safe online on their personal devices during school hours,⁷⁹ the Commission is wrong to assume that the “Steps taken by parents to curb screen time and block inappropriate or harmful content on home networks, computers, and devices may be negated once their child enters a school or library building.”

Benton suspects the Commission may be unaware that parents can already set screen time limits for their children’s devices and limit which apps are available at different times of day—before school, during school, after school, and during weekends or family trips. These tools continue to work regardless of whether their child’s devices use a commercial cellular network or an E-Rate-

⁷⁹ Kohlenberger, Jim. "The Who, What, When, and How of New Tools to Help Parents Keep Their Kids Safe Online." Trusted Future, June 8, 2026. <https://trustedfuture.org/the-who-what-when-and-how-of-new-tools-to-help-parents-keep-their-kids-safe-online/>.

enabled Wi-Fi network, and they are not negated, as the Commission asserts, “once their child enters a school or library building.”

Device screen time limits have become an especially powerful and popular tool for parents, giving them ways to set limits on how much time their kids can spend on devices each day. Now these controls are being taken to the next level with features on both Google and Apple devices that let parents set specific time allowances for different types of apps, like entertainment or social media. Importantly, the new smartphone/tablet features recommend time limits for each category of device use based on the American Academy of Pediatrics' Healthy Digital Habits guidance.⁸⁰ Because the time limits a parent sets for a school day may not match those for a weekend or a family vacation, new features that recognize each child is unique give parents flexible ways to better target limits to how kids actually live their lives.

“These tools recognize that parents may have different priorities for the limited number of apps their kids’ access can access during the school day, the education apps they may need during homework time, versus the sports or entertainment apps they may want on the weekend or when on vacation. Devices in the classroom should support learning. At a time when parents want to maintain the ability to communicate with their kids at school (especially in an emergency), but parents and teachers also have concerns about children being distracted in class by their phones, these new features address both issues. They allow

⁸⁰ Apple. "Apple and the American Academy of Pediatrics Release New Guide to Help Families Build Healthy Digital Habits." Apple Newsroom, September 29, 2026. <https://www.apple.com/newsroom/2026/09/apple-releases-new-guide-to-help-families-build-healthy-digital-habits/>.

parents to communicate with kids at school if they need to, while also allowing them to set strict limits on what a child can do with their phone during school hours.”⁸¹



Likewise, **Google Android** lets parents set a child’s screen time through Google Family Link and built-in Android Parental Controls, letting them set daily limits, schedule downtime, and manage individual apps.⁸²

⁸¹ Kohlenberger, Jim. "The Who, What, When, and How of New Tools to Help Parents Keep Their Kids Safe Online." Trusted Future, June 8, 2026. <https://trustedfuture.org/the-who-what-when-and-how-of-new-tools-to-help-parents-keep-their-kids-safe-online/>.

⁸² Brooks, Mindy. "New Expanded Android Parental Controls to Support Families around the World." Google Blog, June 16, 2026. <https://blog.google/products-and-platforms/platforms/android/new-expanded-android-parental-controls/>.

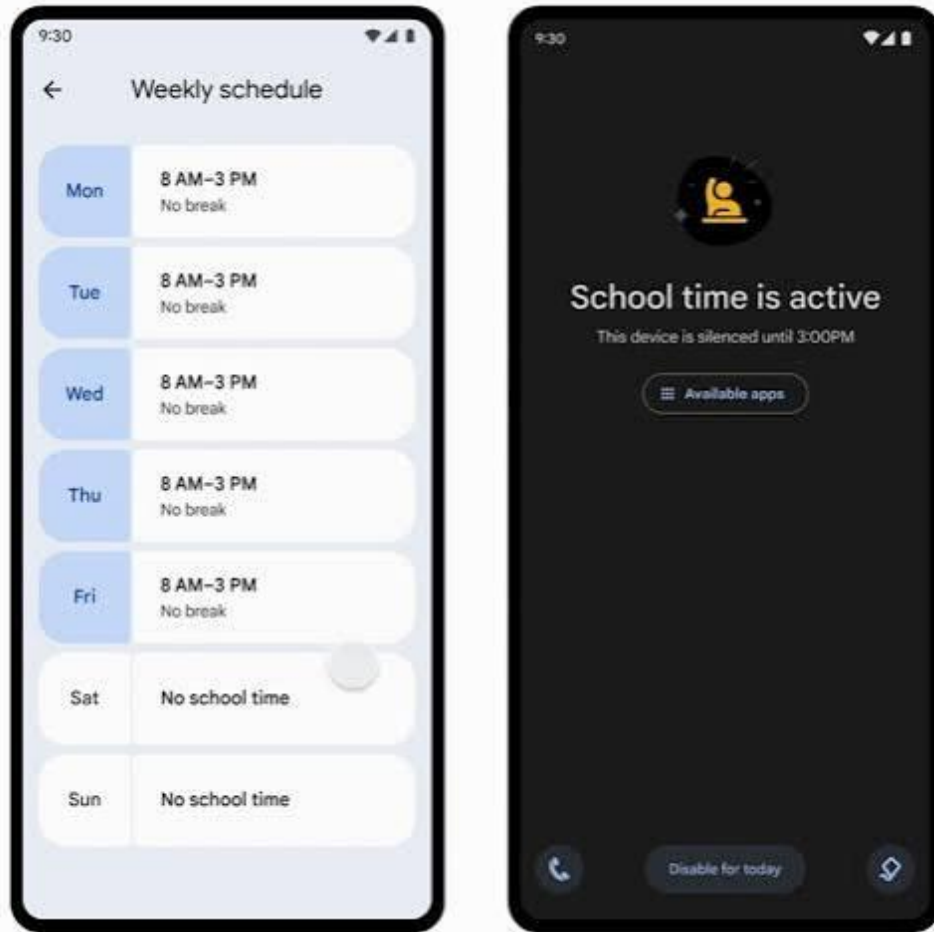
- Android parental controls allow parents to set daily screen time limits for their children and to set app limits by limiting time spent on specific apps, or blocking apps entirely. Together these make it easier for parents to manage their child's screen time and to find balance between having fun online and offline.

Google Family Link allows parents to get a picture of how their children spend time on their devices, manage privacy settings, and more.⁸³

School Time is another Family Link capability.⁸⁴ Android's School Time can help reduce distractions by scheduling limited phone functionality and silenced notifications during school hours. Parents can choose which apps to silence and restrict, and see which apps their child uses during School Time and outside of it.

⁸³ Google. "Family Link: Help Keep Your Family Safer Online." Google Families, n.d. Accessed October 2, 2026. <https://families.google/familylink/>.

⁸⁴ Rieb, Wendi. "Google Family Link Brings New Supervision Tools for Parents." Google Blog, February 12, 2025. <https://blog.google/innovation-and-ai/technology/families/family-link-updates-february-2025/>.



While the operating system tools are the most effective tools for parents who want to limit their children's app use at school, social media applications have also built tools for parents

These tools give parents an opportunity to engage in conversations with their children about appropriate use. As the Family Online Safe Institute (FOSI) survey of parents found, parents see themselves as having the most responsibility for managing their children's access to age-appropriate content, more so than technology companies or the government.⁸⁵

⁸⁵ Family Online Safety Institute (FOSI). *Making Sense of Age Assurance: Enabling Safer Online Experiences*. Research report. FOSI, November 2022. <https://fosi.org/wp->

Since every child is unique, parents need the ability to tailor solutions to their family's needs. Indeed, FOSI found that 87% of parents use some form of parental control tools to manage their children's digital lives, that 2/3ds of parents have instituted restrictions on screen time, and 4 in 5 find these parental controls effective.⁸⁶

These strategies and innovations appear to be beyond the Commission's knowledge, which is understandable because they are also beyond the Commission's expertise and authority. Simply put, the Commission should not use its judgment to replace parents' judgment and take away their parenting choices.

Despite the availability and use of these tools, some parents nonetheless lack information on tools and strategies that best meet their family's needs. When Congress adopted the Protecting Children in the 21st Century Act,⁸⁷ which amended CIPA, the law gave the Federal Trade Commission, and not the Federal Communications Commission, the authority to "carry out a nationwide program to increase public awareness and provide education regarding strategies to promote the safe use of the Internet by children"... that includes "facilitating access to, and the exchange of, information regarding Internet safety to promote up-to-date knowledge regarding current issues" including to schools.

In addition, Congress is now considering the Promoting a Safe Internet for Minors Act (H.R.6289),⁸⁸ which would create additional resources and a national campaign for parents,

[content/uploads/2025/04/636d13257232675672619f45 MAKING-SENSE-OF-AGE-ASSURANCE-FULL-REPORT-FOSI-2022_compressed.pdf](https://www.congress.gov/bill/119th-congress/house-bill/6289).

⁸⁶ Id.

⁸⁷ Congress.gov. "S.1965 - 110th Congress (2007-2008): Protecting Children in the 21st Century Act." June 3, 2008. <https://www.congress.gov/bill/110th-congress/senate-bill/1965>.

⁸⁸ Congress.gov. "H.R.6289 - 119th Congress (2025-2026): Promoting a Safe Internet for Minors Act." December 11, 2025. <https://www.congress.gov/bill/119th-congress/house-bill/6289>.

educators, schools, nonprofit organizations, communities, and kids in an effort to promote the safe use of the internet, and to facilitate the effective use of safeguards, parental controls, and other tools to empower parents and guardians to protect minors online. To the extent a problem exists, Congress can act to address it.

B. Managing Personal Devices in Educational Environments

While parents are able to set controls for the smartphones their children bring to school that work regardless of whether their smartphone is connected over a cellular network (e.g., 5G) or the school's E-Rate-supported Wi-Fi network, laptop operating systems often lack these same parental controls. But those computers also generally can't connect directly to cellular networks. The Commission asks, “Are the parents or guardians of children responsible for ensuring their third-party owned devices are protected when accessing the school’s or library’s network and services?” Yes, parents have a responsibility for linked smartphone devices where the account is linked to their own (which enables parental controls on the device). Benton also believes that CIPA applies to E-Rate supported networks, and schools have an obligation to ensure that students are protected from content over E-Rate supported networks that is: (a) obscene; (b) child pornography; or (c) harmful to minors—regardless of whether it’s consumed on a personal laptop or personal smartphone that is accessing the Wi-Fi network. That generally means the Commission can institute network-based protections.

As the Supreme Court affirmed in the landmark U.S. Supreme Court case *Prince v. Massachusetts* (1944),⁸⁹ “It is cardinal with us that the custody, care and nurture of the child reside first in the parents, whose primary function and freedom include preparation for

⁸⁹ *Prince v. Massachusetts*, 321 U.S. 158, 166 (1944).

obligations the state can neither supply nor hinder.” The doctrine of in loco parentis treats school administrators as standing in the place of students’ parents when the children’s actual parents cannot protect, guide, and discipline them. However, as described above, parents can control what, when, and who a child can access on their smartphones that access the internet. The Commission’s proposed screen-time conditions would displace both of these existing frameworks—substituting federal administrative mandates for the judgments of parents, educators, and local school boards already exercising the authority the Commission seeks to regulate. Neither the statute nor the record supports that displacement.

VIII. Legal Constraints on Commission-Imposed Screen-Time Mandates

Our students deserve to be connected and protected. But to protect kids, we don’t need to sacrifice their connectivity, and the Commission doesn’t have the authority to limit the number of hours students can learn or to do homework.

Any proposal to require or condition E-Rate funding on the implementation of screen-time limits for students exceeds the Commission’s statutory mandate under both Section 254 of the Communications Act and the Children’s Internet Protection Act (CIPA).

Section 254 is a funding mechanism, not a curriculum standard. Congress designed Section 254 to bridge the digital divide by subsidizing network infrastructure and connectivity. Nowhere in Section 254 did Congress authorize the Commission to dictate instructional time, regulate screen duration, or manage how a teacher uses classroom time.

CIPA is clear: *“A determination regarding what matter is inappropriate for minors shall be made by the school board, local educational agency, library, or other authority responsible for*

making the determination. No agency or instrumentality of the United States Government may— (A) establish criteria for making such determination; (B) review the determination made by the certifying school, school board, local educational agency, library, or other authority; or (C) consider the criteria employed by the certifying school, school board, local educational agency, library, or other authority in the administration of subsection (h)(1)(B).” [Emphasis added.]

Classroom instruction and student technology-use hours are core educational policy decisions reserved for state and local education agencies (LEAs). Conditioning E-Rate support on compliance with federal screen-time caps transforms a financial discount program into a regulatory instrument over local school administration without statutory authorization.

A. CIPA’s Statutory Scope is Explicitly Limited

Congress established the precise parameters of student online protection under E-Rate when it enacted the Children’s Internet Protection Act (CIPA). CIPA explicitly mandates specific safety measures and governs the nature of the content accessed, not the duration of access. Congress addressed student online safety in CIPA by specifically mandating internet safety policies, content filtering technology, and digital citizenship education. The explicit inclusion of these specific requirements demonstrates that Congress did not grant the Commission open-ended authority to invent additional non-content-based restrictions such as screen-time limits.

The Commission cannot rely on broad statutory phrases like "educational purposes" to extrapolate sweeping regulatory power over student technology habits.

This doesn’t mean students should not be protected in other important ways; it just means that the Commission should not set standards that the law prevents and that are best derived locally.

IX. Addressing Misconceptions Regarding Screen Time and Academic Outcomes

In the NPRM, the Commission asserts that “it is notable that as screen use has risen in U.S. classrooms, reading and math skills have declined,” and references recent National Center for Educational Statistics (NCES) data on test scores.⁹⁰ However, the NCES data the Commission cites actually show a steep decline in reading and math scores among 9-year-olds from 2020–2022 (from 220 to 215 in reading and from 241 to 235 in math). These years, and this decline, are generally associated with pandemic-era learning disruptions, when screen time increased drastically due to the need for remote learning.

As the NCES fact sheet reports, “Of the 70 percent of 9-year-olds who learned remotely during the 2020–21 school year, higher performers (those at or above the 75th percentile) **had greater access to a desktop computer, laptop, or tablet all the time**” ... while lower performers (those below the 25th percentile) reported they were resource constrained, including having to share devices. (Emphasis added.)

By contrast, the same NCES data set also shows marked gains in math and science scores for this cohort since the E-Rate began, when screens first broadly showed up in classes, and which have expanded as schools implemented 1:1 learning programs.

It’s clear this data on lower test scores is not causal, but instead highlights **the importance of a student’s at-home access** to learning devices and closing access disparities. These important insights are one example of the kind of valuable data that NCES has consistently provided

⁹⁰ National Center for Education Statistics, Fast Facts, Long Term Trends in Reading and Mathematics Achievement, <https://nces.ed.gov/fastfacts/display.asp?id=38> (last visited June 2, 2026)

policymakers, which is also why Benton is disappointed that the Commission, and indeed the public, will no longer have access to further NCES data, research, and analysis after the agency was reduced from approximately 103 staff to 3 last year as part of Administration efforts to dismantle the Department of Education.⁹¹ This leaves the Commission without expert data to inform the record.

However, the latest Program for International Student Assessment (PISA) international exam results⁹² saw U.S. science scores climb three points from three years ago to match where they stood in 2009 and 2018, making a link to increased screen time implausible. In addition, a PISA assessment of learning in the digital world measured students' computational problem-solving skills and their ability to self-direct their learning in a digital environment and found U.S. students outperformed the Organisation for Economic Co-operation and Development (OECD) average.

To the extent the Commission is concerned with learning outcomes as they relate to connectivity, research has long shown that a lack of reliable broadband access creates a severe "homework gap," leaving millions of K-12 students unable to complete online assignments, join virtual

⁹¹ American Educational Research Association (AERA). "Department of Education Initiates Reduction in Force with Significant Impact on IES Staffing." AERA Highlights, March 2025. <https://www.aera.net/Newsroom/AERA-Highlights-E-newsletter/AERA-Highlights-March-2025/Department-of-Education-Initiates-Reduction-in-Force-with-Significant-Impact-on-IES-Staffing>. Sparks, Sarah D. "Education Data Collection Has Cratered Under Trump. Can It Be Rebuilt?" *Education Week*, August 25, 2026. <https://www.edweek.org/policy-politics/education-data-collection-has-cratered-under-trump-can-it-be-rebuilt/2026/08>.

⁹² Program for International Student Assessment 2025 exam results, September 8, 2026, comparing test results from 15-year-old students from 91 countries, https://www.oecd.org/en/publications/pisa-2025-results-volume-i-country-notes_2d4ff9ea-en/united-states_0c8cbc7c-en.html

classes, or compete academically. This divide heavily affects low-income, rural, and minority households, widening long-term educational and economic disparities

The Commission asserts that: “Research suggests that heightened screen time may be related to negative outcomes among children, including declines in academic performance, language development, cognitive and social development, and mental health.” However, the Commission ignores the important, nuanced nature of the research.

For example, research also finds that school cellphone bans do not increase test scores. A large study published in April by the National Bureau of Economic Research, the largest of its kind, examined the effects of school cellphone bans and found mixed results.⁹³ The ban did not significantly improve school attendance or self-reported classroom attention, while average effects on test scores were “consistently close to zero,” with middle schools seeing small negative effects on student achievement. Indeed, in the first year after adopting cell phone bans, they found disciplinary incidents increased, and student subjective well-being fell.

The Commission uses correlated studies, not causal studies, to imply that technology use over time caused mental health challenges. However, several meta-analyses and systematic reviews have found no consistent or measurable associations between social media use and adolescent mental health. An analysis across 72 countries similarly found no consistent or measurable associations between well-being and the global rollout of social media.⁹⁴ Moreover, findings

⁹³ Allcott, Hunt, E. Jason Baron, Thomas Dee, Angela L. Duckworth, Matthew Gentzkow, and Brian Jacob. "The Effects of School Phone Bans: National Evidence from Lockable Pouches." NBER Working Paper No. 35132. National Bureau of Economic Research, April 2026, revised September 2026. <https://www.nber.org/papers/w35132>.

⁹⁴ Vuorre, M., and A. K. Przybylski. "Global Well-Being and Mental Health in the Internet Age." *Royal Society Open Science* 10 (2023): 221451. <https://doi.org/10.1098/rsos.221451>.

from the Adolescent Brain Cognitive Development Study, the largest long-term study of adolescent brain development in the United States, have found no evidence of drastic changes associated with digital-technology use.⁹⁵ It suggests the answers to our children’s mental health crisis are much more complex – and, as the research suggests, are tied to a broader range of environmental factors – increased risk of school shootings, exposure to violence, the opioid epidemic, economic hardships, and social isolation are all prominent factors. In the United States, close to one in six children now live below the poverty line while also growing up at the time of an opioid crisis, school shootings, and increasing unrest—all issues policymakers need to remain focused on.

Researchers, for example, have found relatively weak associations and small effects of these technologies on teen mental health on a population level.⁹⁶ Scientists caution that while a small share of young people use devices in problematic ways—and in rare cases social media use is associated with serious harms such as self-harm—individual tragedies should not be generalized into a conclusion that phones or social media pose a grave danger to all teens. They suggest parents should have a conversation with their children about their technology use and ensure their children’s lives are balanced with appropriate amounts of sleep, exercise, a range of activities, and friendships.

Chairman Carr’s statement accompanying the NPRM references and relies upon research from “Professor Jonathan Haidt, social psychologist and professor at New York University’s Stern

⁹⁵ Miller, J., K. L. Mills, M. Vuorre, A. Orben, and A. K. Przybylski. "An Exploratory Analysis of the Association Between Adolescent Brain Development and Digital Technology Use." *Cortex* 169 (2023): 290–308. <https://doi.org/10.1016/j.cortex.2023.09.009>.

⁹⁶ Pearson, Helen. "Do Smartphones and Social Media Really Harm Teens' Mental Health?" *Nature*, April 2, 2025. <https://www.nature.com/articles/d41586-025-00933-3>.

School of Business, [who] has found that screen time is linked with the rise of youth depression and anxiety.”⁹⁷ And while Haidt is known as a brilliant storyteller, he is not a clinical psychologist or a child development specialist. Researchers in the field argue his evidence is far from ironclad. Independent researchers and statisticians have identified significant flaws in his conclusions.⁹⁸

For example, New York University statistics expert Aaron Brown, writing for *Reason*, notes that many of the studies in Haidt’s exhaustive reference list are statistically unreliable or fail to show a strong causal link (many of these references are also cited by the Commission).⁹⁹ Likewise, in *Nature*, researchers analyzed Haidt’s substantial claims and found that while “Haidt is telling a scary story about children’s development that many parents are primed to believe,” the science tells a different story and does not match the seriousness of his claims.¹⁰⁰ Instead, they report, “Hundreds of researchers ... have searched for the kind of large effects suggested by Haidt. Our efforts have produced a mix of no, small and mixed associations. Most data are correlative...

⁹⁷ NPRM, at p. 79 (Statement of Chairman Carr).

⁹⁸ Thorp, Holden. "The Muddled Science on Teens and Social Media: Extensive Interviews with Jon Haidt and Candice Odgers." *Science Forever* (Substack), July 5, 2024. <https://www.science-forever.com/p/more-on-the-muddled-science-on-teens>. Montgomery, Blake. "The Anxious Generation Wants to Save Teens. But the Bestseller's Anti-Tech Logic Is Skewed." *The Guardian*, April 27, 2024. <https://www.theguardian.com/books/2024/apr/27/anxious-generation-jonathan-haidt>. Schiffer, Zoë. "Inside the Debate Over *The Anxious Generation*: Jonathan Haidt Wrote a Best-Selling Book about Teens and Social Media. Not Everyone Buys Its Thesis." *Platformer*, April 11, 2024. <https://www.platformer.news/anxious-generation-jonathan-haidt-debate-critique/>.

⁹⁹ Brown, Aaron. "The Statistically Flawed Evidence That Social Media Is Causing the Teen Mental Health Crisis: Jonathan Haidt's Integrity and Transparency Are Admirable, but the Studies He's Relying On Aren't Strong Enough to Support His Conclusions." *Reason*, March 29, 2023. <https://reason.com/2023/03/29/the-statistically-flawed-evidence-that-social-media-is-causing-the-teen-mental-health-crisis/>.

¹⁰⁰ Odgers, Candice L. "The Great Rewiring, Unplugged: Is Social Media Really Behind an Epidemic of Teenage Mental Illness?" *Nature* 628 (April 4, 2024): 29–30. <https://www.nature.com/articles/d41586-024-00902-2>.

[not causal.]” (Emphasis added.) The difference between correlative and causal research is significant here. For example, ice cream sales and shark attacks are correlative in that they both go up in the summer. But that doesn’t mean ice cream causes shark attacks—no causal relationship exists.

The reality is that research has consistently disproven the oft-assumed link between social media use and poor mental health in youth, and actually indicates that moderate internet use is a net positive for teens’ development, and negative outcomes are usually due to either lack of access or excessive use.¹⁰¹ In one major study of 100,000 adolescents, a “U-shaped association emerged where moderate social media use was associated with the best well-being outcomes, while both no use and highest use were associated with poorer well-being.”¹⁰²

As a matter of law and policy, this is a matter that is left to the bodies with authority and expertise: the states, other federal agencies, and Congress. Just because Professor Haidt makes a compelling argument doesn’t mean the Commission should or can stretch its statutory interpretation of E-Rate rules to block the technology. For example, Professor Haidt now argues that AI poses a greater threat to children than social media and says AI threats to children are “far

¹⁰¹ Singh B, Zhou M, Curtis R, Maher C, Dumuid D. Social Media Use and Well-Being Across Adolescent Development. *JAMA Pediatr.* 2026;180(3):288–297. doi:10.1001/jamapediatrics.2025.5619. Qiqi Cheng, Margarita Panayiotou, Turi Reiten Finserås, Amanda Iselin Olesen Andersen, Neil Humphrey, How do social media use, gaming frequency, and internalizing symptoms predict each other over time in early-to-middle adolescence?, *Journal of Public Health*, Volume 48, Issue 1, March 2026, Pages 59–69, <https://doi.org/10.1093/pubmed/fdaf150>

¹⁰² Singh B, Zhou M, Curtis R, Maher C, Dumuid D. Social Media Use and Well-Being Across Adolescent Development. *JAMA Pediatr.* 2026;180(3):288–297. doi:10.1001/jamapediatrics.2025.5619

beyond” those of social media.¹⁰³ Yet we don’t hear the Commission asking any questions about whether President Trump’s Executive Order 14277¹⁰⁴ will cause harm, whether Professor Haidt is right and the President is wrong on whether AI in the classrooms can improve educational outcomes, and the Commission is not asking whether it can shoehorn E-Rate rules to set limits to AI access in schools. Benton doesn’t think the Commission can or should. Decisions about using these tools are better left to educators, researchers, communities, pediatricians, and lawmakers, not the Commission. Just because Professor Haidt creates a narrative doesn’t mean the Commission should use his argument to supersede local conversations, a presidential Executive Order, or the Commission’s own statutory authority.

And while school screen time (or AI) may not be the primary drivers of our children’s mental health crisis, nor does social media explain all of the challenges. It is true that we have a generation in crisis and in desperate need of the best science- and evidence-based solutions can offer.

And as the US Department of Education explains in its August 2026 open letter on technology in the classroom, “Research and experience have demonstrated that technology is a valuable instructional tool when it supports strong pedagogy and effective teaching practices.”¹⁰⁵ The Department also points out that the Elementary and Secondary Education Act (ESEA), as amended by the Every Student Succeeds Act (ESSA), reflects a longstanding federal

¹⁰³ Haidt, Jonathan. "AI Threats to Children Are 'Far Beyond' Those of Social Media: Top Mental Health Researcher." Interview by Dasha Burns. *The Conversation with Dasha Burns*. POLITICO, August 21, 2026. <https://www.youtube.com/watch?v=F255POOavBg>.

¹⁰⁴ Exec. Order No. 14277, *supra*.

¹⁰⁵ Baesler, Kirsten, Assistant Secretary, Office of Elementary and Secondary Education, U.S. Department of Education. "Dear Colleague Letter on Education Technology and Screen Time in Schools." August 20, 2026. <https://www.ed.gov/media/document/guidance-education-technology-and-screentime-schools-114386.pdf>.

commitment to evidence-based decision-making: “Researchers contribute objective evidence about what works.” The Department continues, “As education technology becomes an increasingly integral component of teaching and learning, states and districts should draw upon this established evidence framework when making procurement and implementation decisions.”

X. Federal Learning-Time Limits are Impractical

Nowhere in the Communications Act is the Commission given authority to set limits on the amount of time a child can spend learning whether via chalkboard, textbook, or laptop. In fact, the legislation the Commission cites, “some of which directly apply to E-Rate-funded networks,” recognizes that it would require a legislative change to give the Commission authority to limit children’s digital learning time.

For example, the Commission cites Senator Ted Cruz’s Eyes on the Board Act,¹⁰⁶ which would specifically amend Section 254 of the Communications Act to require schools and school districts that participate in the E-Rate program to block social media access on subsidized services and networks, to adopt policies to limit screen time in school, and to require school internet safety policies to include screen time limits. The legislation and the Commission's citation reflect an inherent recognition that Section 254 does not currently authorize the Commission to make any of these changes.

The Commission is considering adopting policies that clearly go beyond its statutory authority; for example, the statute never mentions screen time limits. Section 254 also does not authorize the Commission to establish digital learning time limits. But the Eyes on the Board Act, which

¹⁰⁶ Congress.gov. "S.3074 - 118th Congress (2023-2024): Eyes on the Board Act of 2023." October 18, 2023. <https://www.congress.gov/bills/118th-congress/senate-bill/3074>.

the Commission cites, is not the law, lacks broad Congressional support, and never even made it out of committee. Such proposals have little support in Congress.

Likewise, the NPRM cites the Kids Off Social Media Act (KOSMA), which amends the Children’s Internet Protection Act in section 254—another recognition that the law needs to change to do what the Commission contemplates. KOSMA also has not gained sufficient support in Congress to pass either chamber. As critics have explained, the legislation, in addition to being unconstitutional, would “make changes to the Children’s Internet Protection Act that will increase surveillance in schools and disproportionately harm low-income children and their families that rely on school-provided devices to access the internet.”¹⁰⁷

The Commission cannot assume authority and take action just because Congress has introduced legislation it has refused to enact.

None of the legislation that the Commission cites calls on the FCC to limit how many hours schools can teach using screens, chalkboards, or books. The Commission is aware, given that it cites the Supreme Court’s Loper-Bright decision in several cases in this item, that introducing a bill in Congress is insufficient to give the Commission new authority.

At the same time, digital rights, civil liberties, and civil rights organizations, including the ACLU, CDT, EFF, Fight for the Future, Free Press Action, New America’s Open Technology Institute, and Public Knowledge, among others, have joined together to explain how KOSMA

¹⁰⁷ American Civil Liberties Union, Center for Democracy & Technology, Electronic Frontier Foundation, et al. Letter to Chairman Ted Cruz and Ranking Member Maria Cantwell, Senate Committee on Commerce, Science, and Transportation, Re: Concerns with S. 4213's Threats to Minors' Privacy and Safety Online. February 4, 2025. <https://cdt.org/wp-content/uploads/2025/02/Letter-on-KOSMA-250203.pdf>.

efforts to amend section 254 to further restrict E-Rate opportunities and ban kids from social media are a bad and unconstitutional idea.

By contrast, the Kids Online Safety Act (KOSA),¹⁰⁸ which the Senate Commerce Committee advanced on August 6, 2026, has gained broader Congressional support without amending Section 254—recognizing that kids' online safety can improve without limiting school learning technologies. Even so, groups like the Electronic Frontier Foundation rightfully point out that the bill's approach will undermine privacy not just for children, but everyone.¹⁰⁹

It is true that when it comes to social media use by minors, 79 percent of Americans don't trust social media companies, but 73 percent don't trust the federal government's efforts to restrict social media use either.¹¹⁰ In fact, based on a survey from the Family Online Safety Institute, just 35 percent of U.S. parents believe the government would implement a social media ban for under-16s properly.¹¹¹

A. Establishing digital learning limits in school creates operational and legal problems.

Setting digital learning limits in school based on screen time would not only be administratively difficult and costly, but would intrude on critical uses of technologies—for example, for state-

¹⁰⁸ Congress.gov. "S.1748 - 119th Congress (2025-2026): Kids Online Safety Act." August 5, 2026. <https://www.congress.gov/bill/119th-congress/senate-bill/1748>.

¹⁰⁹ Mullin, Joe. "The Senate Should Reject KOSA's Privacy Risks." Electronic Frontier Foundation, August 3, 2026. <https://www.eff.org/deeplinks/2026/08/senate-should-reject-kosas-privacy-risks>.

¹¹⁰ Foundation for Individual Rights and Expression. National Speech Index: April 2026 Topline Results. (May 7, 2026) <https://www.fire.org/research-learn/national-speech-index-april-2026>

¹¹¹ Id.

mandated and other online testing, for students who rely on digital assistive technologies, for critical communication needs, and would likely violate the First Amendment at libraries.

B. Online testing.

The overwhelming majority of states now administer standardized assessments through computer-based testing, requiring reliable school broadband connectivity as a prerequisite for students to meet federal testing requirements. In addition, 69 percent of educators surveyed in an Education Week Research Center survey say that teachers at their schools use online quizzes almost daily;¹¹² limiting educational screen time could have unintended consequences.

Take, for example, a student who knows he has a hard math test at the end of the day and hasn't studied. The student could abuse the educational screen time limit by using up his screen time allowance before class, so he can't take the online test.

C. Students with Disabilities.

Technology use limits could create especially disproportionate harm for the roughly 7.5 million K-12 public school students with disabilities,¹¹³ who sometimes rely on digitally assistive technologies to translate sights or sounds. Assistive technologies have proven life-changing for students with disabilities—helping them live, interact, and learn to their fullest potential. For students with disabilities, technology can empower them and give them independence. Tools can

¹¹² Klein, Alyson. "Online Quizzes Are Now Wildly Popular With Teachers: See How Other Digital Tools Stack Up." *Education Week*, March 8, 2022. <https://www.edweek.org/technology/online-quizzes-are-now-wildly-popular-with-teachers-see-how-other-digital-tools-stack-up/2022/03>.

¹¹³ National Center for Education Statistics. (2024). Students With Disabilities. *Condition of Education*. U.S. Department of Education, Institute of Education Sciences <https://nces.ed.gov/programs/coe/indicator/cgg>.

support students with disabilities in vision, hearing, speech, learning, and literacy. Students with disabilities often rely on assistive technologies such as text-to-speech, speech-to-text, real-time captioning, and visual supports to access grade-level instruction. Virtual tutoring, adaptive instructional programs, and digital learning resources can provide individualized services, timely feedback, and additional instructional support that complements high-quality classroom teaching.¹¹⁴ New assistive technologies are helping students who are deaf or hard of hearing “see” conversations. They are helping the blind and the visually impaired see and navigate their world—for example, by letting blind and low-sighted students aim their smartphone camera at an object and have it described in natural language.¹¹⁵ But according to Pew, Americans with disabilities are less likely than those without to own some digital devices.¹¹⁶ In the end, this technology doesn’t just connect students with disabilities to the internet or to new learning opportunities; it connects them to new forms of opportunity and empowerment. If the Commission limits or takes away access, these people could be especially disadvantaged.

¹¹⁴ Baesler, Kirsten, Assistant Secretary, Office of Elementary and Secondary Education, U.S. Department of Education. "Dear Colleague Letter on Education Technology and Screen Time in Schools." August 20, 2026. <https://www.ed.gov/media/document/guidance-education-technology-and-screentime-schools-114386.pdf>.

¹¹⁵ Johnson, Khari. "AI Could Change How Blind People See the World: Assistive Technology Services Are Integrating OpenAI's GPT-4, Using Artificial Intelligence to Help Describe Objects and People." *Wired*, July 5, 2023. <https://www.wired.com/story/ai-gpt4-could-change-how-blind-people-see-the-world/>. "Be My AI." Be My Eyes, September 25, 2023. <https://www.bemyeyes.com/news/announcing-be-my-ai-soon-available-for-hundreds-of-thousands-of-be-my-eyes-users/>.

¹¹⁶ Perrin, Andrew, and Sara Atske. "Americans with Disabilities Less Likely Than Those Without to Own Some Digital Devices." Pew Research Center, September 10, 2021. <https://www.pewresearch.org/short-reads/2021/09/10/americans-with-disabilities-less-likely-than-those-without-to-own-some-digital-devices/>.

D. Communicating with Parents.

Parents often depend on their children being able to communicate with them during the day, which screen-time limits could block. Parents often use a variety of different communication channels to communicate with their children about pick-up times, after-school activities, or doctor appointments. Some text, others e-mail, use social media direct messages or chat functions depending on their family's practices. Screen time or network time limits could restrict those communication channels. In a shooting emergency, students need to discreetly text 911, emergency personnel, or parents with precise details about an attacker's location or status, or simply to let their parents know they are OK.¹¹⁷

XI. Screen Time Limits in Libraries are Unconstitutional

On June 26, 1997, in *Reno v. American Civil Liberties Union*,¹¹⁸ the United States Supreme Court of the United States issued a sweeping reaffirmation of core First Amendment principles and held that communications over the internet deserve the highest level of Constitutional protection.

In *United States v. American Library Association*,¹¹⁹ exploring the constitutionality of CIPA internet access restrictions in libraries, the Supreme Court looked explicitly at "filtering" of pornographic material. In addition to blocking obscene images and child sexual abuse material, CIPA also requires libraries to block a third category—images that courts deem “harmful for

¹¹⁷ Cochran, Lexi Lonas. "School Shootings Raise New Concerns over Cell Phone Bans." *The Hill*, September 27, 2024. <https://thehill.com/homenews/education/4901947-school-shootings-cell-phone-bans-georgia-springfield-uvalde/>

¹¹⁸ *Reno v. American Civil Liberties Union*, 521 U.S. 844 (1997). (*Reno*)

¹¹⁹ *United States v. American Library Association*, 539 U.S. 194 (2003). (*ALA*)

minors.” These images are legal for adults but not for minors. The Court held that because public libraries' use of internet filtering software does not violate their patrons' First Amendment rights, CIPA does not induce libraries to violate the Constitution and is a valid exercise of Congress's spending power. Both the plurality and concurring opinions noted that CIPA imposed a comparatively small burden on library internet users that was not disproportionate to any potential speech-related harm, especially in light of the libraries' ability to unblock sites. The Court's holding was explicitly limited to filtering of obscene, child pornographic, and harmful-to-minors content—the categories Congress specified in CIPA. Imposing per-day hour limits on E-Rate-funded networks, or restricting instructional technology use, finds no support in ALA and would raise serious First Amendment questions that the Commission has not addressed in this record.

The Commission's proposed screen-time conditions go well beyond what *ALA* authorized and well beyond what *Reno*'s First Amendment framework permits.

XII. The Commission Should Maintain Local Flexibility for Personal Devices and BYOD Policies

The Commission asks: “Should schools or libraries prevent third-party owned devices from connecting to E-Rate-funded networks and services altogether?” The answer: No. First, there isn't a problem that needs solving. Third-party devices on E-Rate networks can protect students from accessing obscene and harmful content. Second, a survey by Bradford Networks found that 95 percent of surveyed schools allow personal laptops on school networks.¹²⁰ Given that schools

¹²⁰ Johnson, Oliver. "How Does BYOD Affect Your School?" AVer, May 5, 2022. <https://www.aver.com/AVerExpert/how-does-byod-affect-your-school>.

rely heavily upon Title I funding for the purchase of their own school computers, and given that Title I funding is being slashed (cuts of \$1.7 billion for 2027),¹²¹ even though most schools (88%) prefer providing standardized equipment to maintain equal access and security, schools are likely to increasingly rely on parents to purchase the child's laptop or learning device—especially for older students.

Given the breadth of school Bring Your Own Device (BYOD) policies, where children bring their own laptops or learning devices to school, the Commission should not restrict, by rule, the use of third-party devices on E-Rate funded networks. The Commission should continue to allow schools to implement the policies that best meet their needs, including network-based internet monitoring and filtering that protect any devices connected to the E-Rate network.

In addition, preventing third-party devices from connecting to a library's E-Rate network would create exceptional harm to millions of library users. The Commission cannot extend CIPA beyond the E-Rate-supported network itself. As the Supreme Court notes in *Reno*, “assuming ... that public libraries have First Amendment rights—CIPA does not “penalize” libraries that choose not to install such software, or deny them the right to provide their patrons with unfiltered Internet access.” Here, the Supreme Court makes clear that CIPA applies only to E-Rate-supported networks, not to other internet access that is not E-Rate-supported.

Benton questions why the Commission would even ask whether a library should prevent access to third-party-owned devices on the internet—one of the primary goals of the E-Rate, which

¹²¹ Lieberman, Mark. "Congress Is Working on a New K-12 Budget. See What's Proposed for Key Programs: House Lawmakers Advanced Major Cuts to Title I and Several Competitive Ed. Dept. Grants." *Education Week*, June 5, 2026. <https://www.edweek.org/policy-politics/congress-is-working-on-a-new-k-12-budget-see-whats-proposed-for-key-programs/2026/06>.

benefits millions of Americans every year. According to the American Library Association, every day 300,000 Americans get job-seeking help at their public library; 30 million people use library internet access for employment or career purposes in a year.¹²² Preventing these Americans from using their own computers to reach the internet to learn, access government services, and the job market is antithetical to the Congressional intent behind the E-Rate.

XIII. The Commission's Authority Over Off-Campus, Off-Device, and Off-Network Speech is Limited

The Commission appears to ask whether it should block 5G-connected devices used on an E-Rate-funded school's property ("devices that are not controlled by the institution"). The answer is: No.

States and schools already have the authority to institute phone bans if desired. And the effects of such bans are mixed. A large study of school phone bans published in April found that "lockable phone pouches" did not significantly improve school attendance or self-reported classroom attention, while average effects on test scores were "consistently close to zero," with high schools seeing modest positive effects.¹²³

In a blatantly obvious invitation to a legal fishing expedition to find something it might have overlooked, the Commission essentially asks whether it has authority to limit screen time on

¹²² American Library Association. "The E's of Libraries." (last viewed October 2, 2026) <https://www.ala.org/advocacy/pp/e>

¹²³ Allcott, Hunt, E. Jason Baron, Thomas Dee, Angela L. Duckworth, Matthew Gentzkow, and Brian Jacob. "The Effects of School Phone Bans: National Evidence from Lockable Pouches." NBER Working Paper No. 35132. National Bureau of Economic Research, April 2026, revised September 2026. <https://www.nber.org/papers/w35132>.

networks beyond E-Rate networks, and “Does the Commission have any statutory authority outside of CIPA to require such limits?” The answer is: No.

While schools must protect E-Rate network content, the Commission does not have authority to limit non-school First Amendment-protected speech, library First Amendment rights, or a parent-controlled personal device, and schools also have limited constitutional authority to limit internet speech outside of school.

The Supreme Court has repeatedly ruled that children and students have First Amendment rights.

- In *Tinker v. Des Moines Independent Community School District*, the Court ruled that students do not "shed their constitutional rights to freedom of speech or expression at the schoolhouse gate."¹²⁴
- In *Brown v. Entertainment Merchants Association*, the Court struck down a law banning the sale of violent video games to minors.¹²⁵ The Court reaffirmed that minors are protected by the First Amendment and receive free-speech rights.

Likewise, in *Mahoney Area School District v. B.L.*¹²⁶ the Supreme Court explored a school’s ability to limit a student’s speech (in this case, their use of Snapchat outside of school hours) and found schools have limited authority to regulate speech when it happens off-campus.

- “First, a school, in relation to off-campus speech, will rarely stand in loco parentis. The doctrine of in loco parentis treats school administrators as standing in the place of

¹²⁴ *Tinker v. Des Moines Independent Community School District*, 393 U.S. 503 (1969).

¹²⁵ *Brown v. Entertainment Merchants Ass'n*, 564 U.S. 786 (2011).

¹²⁶ *Mahanoy Area School District v. B.L.*, 594 U.S. 180 (2021).

students' parents under circumstances where the children's actual parents cannot protect, guide, and discipline them. Geographically speaking, off-campus speech will normally fall within the zone of parental, rather than school-related, responsibility."¹²⁷

- *Second, from the student speaker's perspective, regulations of off-campus speech, when coupled with regulations of on-campus speech, include all the speech a student utters during the full 24-hour day. That means courts must be more skeptical of a school's efforts to regulate off-campus speech, for doing so may mean the student cannot engage in that kind of speech at all.*"¹²⁸
- *Third, the school itself has an interest in protecting a student's unpopular expression, especially when the expression takes place off campus. America's public schools are the nurseries of democracy.*"¹²⁹

XIV. Age-Differentiated Learning Limits are Impractical

The CIPA statute and regulations define "minor" as any individual under age 17, thus protecting ALL children. The Commission seeks "comment on whether we should also adopt a definition for 'child' or use the COPPA definition of any individual under the age of 13 so that potential CIPA protections and requirements could be implemented based on the age of the child or minor impacted." The Commission also asks about setting different rules for the level of CIPA protection based on a child's age or age range.

¹²⁷ Id., slip op. at 7.

¹²⁸ Id.

¹²⁹ Id.

Nothing prevents schools from implementing different grade-level protections, as several states and localities have already done.

States and localities already deal with age- and grade-appropriate use of technology. For example, Utah lawmakers this year directed the state education board to develop grade-specific technology rules for kindergarten through third grade.¹³⁰ A Tennessee law requires every district and charter school serving K-5 students to adopt an age-appropriate digital device policy.¹³¹ Alabama adopted a law requiring the establishment of standards and teacher training for childcare facilities, prekindergarten, and kindergarten.¹³²

Given local authority, the Commission need not set a differentiated age limit, and Congress provides no authority to do so. CIPA already requires protection for “ALL” students regardless of age.

XV. The Commission Should Prioritize Digital Literacy Over Content Regulation

To meet the goals of the Protecting Children in the 21st Century Act, schools must educate minors about appropriate online behavior, including how to interact with others on social networking websites and in chat rooms. But schools can’t teach appropriate technology use if

¹³⁰ Utah. H.B. 273, "Classroom Technology Amendments," 2026 General Session, enrolled copy. Chief Sponsor: Rep. Ariel Defay; Senate Sponsor: Sen. Chris H. Wilson. Utah State Legislature, 2026. <https://le.utah.gov/Session/2026/bills/enrolled/HB0273.pdf>.

¹³¹ Tennessee. S.B. 2310, 114th General Assembly (2025–2026). Primary Sponsors: Sen. Hensley (Senate); Rep. Reneau (House companion H.B. 2393). Tennessee General Assembly, 2025–2026. <https://capitol.tn.gov/Bills/114/Bill/SB2310.pdf>.

¹³² Alabama. H.B. 78, "Education Policy," 2026 Regular Session, enrolled. Primary Sponsor: Rep. Ross; Co-sponsors: Reps. DuBose, Lamb, Mooney, Rehm, Kirkland, Shaver, Fidler, Givens, Reynolds, Faulkner, Kiel, Sells, Stadthagen, Baker, Collins, Hulsey, Holk-Jones, and Colvin. Alabama Legislature, 2026. <https://alison.legislature.state.al.us/files/pdf/SearchableInstruments/2026RS/HB78-enr.pdf>.

kids lack access to it, which the Commission contemplates limiting in several places in this proceeding.

In addition, at least half of U.S. states have now enacted laws to improve media literacy education for kids.¹³³

- Virginia, for example, now requires public schools to incorporate instruction about time spent using electronic devices and their addictive potential into instruction about drugs, alcohol, and substance abuse.¹³⁴
- Delaware's Digital Citizenship Education Act mandates that the Delaware Department of Education adopt standards aligned with 13 key elements from internet safety and online ethics to understanding bias in digital content and the tactics used in advertising to help districts and charter schools fulfill CIPA-related online safety instruction.¹³⁵
- New Jersey enacted legislation requiring information literacy instruction in K-12 schools under the state's Student Learning Standards.¹³⁶

¹³³ Klein, Alyson. "More States Are Pairing Cellphone Bans With Media Literacy Instruction." *Education Week*, January 21, 2026. <https://www.edweek.org/technology/more-states-are-pairing-cellphone-bans-with-media-literacy-instruction/2026/01>.

¹³⁴ Va. Code Ann. § 22.1-206 (2026).

¹³⁵ Delaware. S.B. 195, "The Digital Citizenship Education Act: An Act to Amend Title 14 of the Delaware Code Relating to Media Literacy." 151st General Assembly (2021–2022). Primary Sponsor: Sen. S. McBride. Signed August 29, 2022. 83 Del. Laws ch. 417 (2022). <https://legis.delaware.gov/BillDetail/78981>.

¹³⁶ New Jersey. S. 588 (SCS/2R), "An Act Directing the Department of Education to Develop New Jersey Student Learning Standards in Information Literacy." 2022–2023 Legislature. Primary Sponsors: Sens. Michael L. Testa Jr. and Shirley K. Turner; Assembly Sponsors: Reps. Daniel R. Benson, Pamela R. Lampitt, and Mila M. Jasey. Signed by the Governor. <https://www.njleg.state.nj.us/bill-search/2022/S588>.

- North Carolina has adopted a Digital Skills Framework, developed through state IT and educational initiatives, to give residents and students baseline digital literacy standards, aligning with online safety mandates.¹³⁷
- In addition, Common Sense Media has developed a Digital Citizenship for CIPA and E-Rate Guide, which recommends all the lessons teachers need to fulfill CIPA requirements.¹³⁸

Model legislation, such as the Digital Literacy in Education Act model policy,¹³⁹ also aims to boost online safety through curriculum developed by education experts—helping students become productive digital citizens equipped to critically analyze media, identify credible sources, detect misinformation, and engage with online platforms responsibly. Notably, this model legislation vests authority in state Departments of Education, not the Commission—reflecting the considered judgment that expertise in digital literacy education properly resides with education agencies, not telecommunications regulators.

SETDA's 2025 State EdTech Trends Survey and Report found that nearly 60 percent of respondents indicated that their state is supporting digital citizenship for students.¹⁴⁰ Nearly half

¹³⁷ Fitzgerald, Madyson. "North Carolina Becomes Latest State to Offer Residents Help with Online Skills: Education Departments and Nonprofit Groups in Several States Also Updated Their Guidelines for Improving Digital Literacy." *Stateline*, November 17, 2025. <https://stateline.org/2025/11/17/north-carolina-becomes-latest-state-to-offer-residents-help-with-online-skills/>.

¹³⁸ Common Sense Media. "Digital Citizenship for CIPA and E-Rate: E-Rate Is Complicated. But Complying with CIPA's Educational Requirements Doesn't Have to Be." Common Sense Media, n.d. https://drive.google.com/file/d/1ioN_PFsqwaV3W35E9mjPgKM3CRW8I3nA/view.

¹³⁹ "Digital Literacy in Education Act Model Policy." 2024. ExcelinEd. <https://excelined.org/wp-content/uploads/2024/05/2024-Digital-Literacy-in-Education-Act-Model-Policy.pdf>

¹⁴⁰ Lee, Keith, Evo Popoff, and David Walker. *2025 State EdTech Trends Report*. State Educational Technology Directors Association (SETDA), 2025. <https://www.dropbox.com/scl/fi/v811vahy7ixytuartlnf6/SETDA-2025-State-EdTech-Trends-Survey-and-Report.pdf?e=1>

of respondents also reported that their state has issued guidance for districts and educators on the responsible use of technology in their classrooms.

Digital literacy isn't just important for CIPA. According to a 2023 report from the National Skills Coalition, 92 percent of jobs now require digital skills.¹⁴¹

The Commission seeks “comment on whether the Commission should define what is required of schools in implementing this requirement to educate minors about “appropriate online behavior.” The answer is: No.

The Commission is no expert on appropriate online behavior, should not be defining educational or instructional content, and the clear Congressional intent is that the obligation is on the school to certify, not on the Commission to design. Educators, school districts, and states are better positioned to address these issues.

The Commission asserts that “digital literacy training need not be screen-based and may be more effective when taught in an analog environment.” Benton disagrees.

Hands-on digital literacy programs are effective because they turn passive technology use into active, real-world skill-building. Books play an important role in learning, but “*educating minors about appropriate online behavior, including interacting with other individuals on social networking websites and in chat rooms and cyberbullying awareness and response,*” as the law requires, is much more likely to be effective and deliver the relevant online skills when they are

¹⁴¹ Bergson-Shilcock, Amanda, Roderick Taylor, and Nye Hodge. *Closing the Digital Divide in the United States: The Payoff for Workers, Business, and the Economy*. National Skills Coalition, February 2023. https://nationalskillscoalition.org/wp-content/uploads/2023/02/NSC-DigitalDivide_report_Feb2023.pdf.

done online. Further, the Commission lacks the authority to determine whether they are delivered in an analog or digital form.

The Commission asks whether “requiring minors to complete mandated digital and online media literacy courses potentially helps reduce screen time and increase online safety for minors when using E-Rate-funded networks and services? If so, should minors be required to complete those courses prior to or simultaneously with the use of E-Rate-funded networks and services?”

Benton believes that every student would benefit from expanded digital literacy. However, the Commission neither has the authority to require a student to obtain a “driver’s license for the Internet,” nor can it block students from E-Rate networks until they have completed a course.

The idea of requiring children to get a driver’s license before surfing the information superhighway is an outdated early-1990s concept that Congress rejected.

In “Public Access to the Internet,” Daniel Dern warned:¹⁴²

“With public-access Internet sites, anyone with a personal computer and a modem can become an Internet user. This is the equivalent of being able to buy an automobile and go driving without having to take a driver’s education course, pass a test or become licensed ... It creates the reality of tens of thousands of users set loose on the “Internet on-ramp” and raring to go. These users don’t necessarily do any harm, but they can place enormous, unanticipated loads on Internet services.”

It’s a quaint but outdated concept that policymakers and educators have moved beyond.

¹⁴² Kahin, Brian, and James Keller, eds. *Public Access to the Internet*. Cambridge, MA: MIT Press, 1995.

For example, in 2000, schools in Utah tried a digital literacy course that students had to complete before they were allowed to use the internet.¹⁴³ When students passed the test, they received a “driver’s license” with their names and the date on it, and, as a poster said, it was their “driver’s license to cruise the Information Highway.”

Since then, Utah has moved away from this outdated concept, and its legislature has passed more comprehensive legislation that requires the State Board of Education to create model policies, which are then delegated to the schools to design and implement on technology use in classrooms that requires programs to be supported by “generally accepted scientific standards of evidence” and includes digital skill concepts around “screen-time management.”¹⁴⁴ This example shows that states and local education agencies can adopt policies that meet their students’ educational needs. However, the Commission has no authority to change or preempt Utah’s or any other state’s child safety programs, laws, or the policies of its State Board of Education, or local schools.

Under the Protecting Children in the 21st Century Act, which amended CIPA, the Commission was not given authority to set the contents of a school’s programs. The law instead gave the Federal Trade Commission the authority to “carry out a nationwide program to increase public awareness and provide education regarding strategies to promote the safe use of the Internet by children”... that includes ... “facilitating access to, and the exchange of, information regarding Internet safety to promote up-to-date knowledge regarding current issues” including to schools.

¹⁴³ Brennan, Jennifer. "The Wired Classroom." *The Utah Statesman*, April 6, 2001. <https://usustatesman.com/the-wired-classroom/>.

¹⁴⁴ Utah. H.B. 273, "Classroom Technology Amendments," 2026 General Session, enrolled. Chief Sponsor: Rep. Ariel Defay; Senate Sponsor: Sen. Chris H. Wilson. Utah State Legislature, 2026. <https://le.utah.gov/Session/2026/bills/enrolled/HB0273.pdf>.

XVI. The Efficacy of Social Media Restrictions

The Commission asks whether it should define social media as harmful to minors as a way to ban its use in schools. Benton does not believe the Commission can or should define “social media” broadly as harmful to minors.

In 2011, the Commission concluded that social networking websites are not *per se* “harmful to minors” under CIPA and do not have to be blocked to receive E-Rate funding.¹⁴⁵ In that order, the Commission found that “Although it is possible that certain individual Facebook or MySpace pages could potentially contain material harmful to minors, we do not find that these websites are *per se* ‘harmful to minors’ or fall into one of the categories that schools and libraries must block.”

The Commission now asks whether it should revisit that conclusion in light of changes in the social media landscape since 2011 and more recent research on its impact on children.

Not all “social media” is the same or harmful. Benton generally believes that social media sites like Facebook, X, or Snap are NOT high-value educational resources, and supports efforts to reduce low-value screen use in schools.

However, because the definition of social media is so broad¹⁴⁶—generally including any digital service that lets people create, share, and interact with user-generated content in an online community—it also captures important instructional video sites, sites that teachers use for

¹⁴⁵ *In the Matter of Schools and Libraries Universal Service Support Mechanism and a National Broadband Plan for Our Future*, Report and Order, 26 FCC Rcd 11119 (2011).

¹⁴⁶ Watts, Jaz. “Is YouTube Social Media? Everything Explained.” Whitespace Agency, June 10, 2025. <https://whitespace.agency/insight/is-youtube-social-media/>.

professional development and instructional lesson support, and that schools use for communicating.

Instructional videos are an important educational resource and are often hosted and made easily accessible to teachers, parents, and children anytime and anywhere because they are hosted on sites like YouTube, which generally meet the definition of social media. Instructional videos can help students grasp abstract phenomena, historical events, or difficult scientific processes better than text alone.

For example, the Khan Academy offers a vast and popular instructional video library on YouTube. Studies have found that using Khan Academy for 30+ minutes a week (or 18+ hours a school year) is associated with roughly 20 percent greater-than-expected learning gains on the MAP Growth Assessment.¹⁴⁷

Instructional videos can also support self-paced learning by letting students pause, rewind, and rewatch segments or use chapter markers to review material at their own speed. Instructional videos can also help hold attention better than traditional lectures. They are also essential for “flipped learning,” where teachers assign instructional videos to be watched ahead of class so class hours can focus more directly on hands-on learning. The Commission should not define instructional video sites as “harmful.”

Studies have also shown that social media spaces have become places for teachers to exchange ideas and gain new information to support their professional development and classroom

¹⁴⁷ Yamkovenko, Bogdan, and Anna Bergstrom. "Khan Academy Efficacy Results, November 2024." Khan Academy Blog, December 6, 2024. <https://blog.khanacademy.org/khan-academy-efficacy-results-november-2024/>.

teaching practices.¹⁴⁸ For example, educators use the social media site LinkedIn and specialized education tags to build Personal Learning Networks (PLNs), swap lesson plans, and find peer support. They may use Pinterest for craft ideas or to access educational posters, such as those by Project Learning Tree.¹⁴⁹ Since approximately 75 percent of parents use social media, it can also be an effective tool for teachers to update and communicate with parents.¹⁵⁰

Parents, teachers, and school districts should decide whether and which social media sites are harmful. For example, the National Education Association has developed a resource and a common set of recommendations for the many scenarios that can arise and how to address them.¹⁵¹

For students' personal devices, as described above, parents can already block their children's access to different social media apps and sites entirely, or limit them during school hours.

Schools are already taking action they deem appropriate. For example, while the Children's Internet Protection Act (CIPA) requires schools receiving E-Rate funds to use technology protection measures (content filters) to block obscenity, child pornography, and material harmful to minors, schools are also explicitly permitted to block any other content or sites they deem inappropriate. Many states and school districts have restricted social media when they believe it

¹⁴⁸ Nochumson, Talia. "Exploring TikTok's Role in K-12 Education: A Mixed-Methods Study of Teachers' Professional Use." *Contemporary Issues in Technology and Teacher Education* 25, no. 1 (2025). <https://citejournal.org/volume-25/issue-1-25/current-practice/exploring-tiktoks-role-in-k-12-education-a-mixed-methods-study-of-teachers-professional-use/>.

¹⁴⁹ See <https://www.pinterest.com/nationalplt/>

¹⁵⁰ Anderson, Monica, and Andrea Caumont. *Parents and Social Media*. Pew Research Center, July 16, 2015. Available at [pewresearch.org](https://www.pewresearch.org).

¹⁵¹ National Education Association, NEA Health and Safety Program. "Social Media in Education: The Use of Social Media in the Education Environment Presents Myriad Challenges." NEA, February 1, 2024. <https://www.nea.org/social-media>.

is inappropriate. For example, many educational institutions simplify compliance by purchasing and using a web filter for their network from a reputable company, which can block more than CIPA requires. For example, they can also block and limit access to inappropriate websites, gaming sites, and sports betting, as well as block specific web addresses like facebook.com or Instagram.com.

Because local authorities set their own comprehensive internet safety policies, many districts use their required CIPA web-filtering infrastructure to restrict or completely block certain social media networks during the school day to minimize distractions and manage bandwidth.

Social media access in the classroom is also warranted at times. While social media access can be restricted at school, under the provisions of the Protecting Children in the 21st Century Act Section contained in Section 254(h), as a part of their internet safety policy, schools must educate minors on appropriate online behavior regarding social networking sites, chat rooms, and cyberbullying awareness, allowing flexible configurations where teachers or older students may have controlled access for specific instructional needs. To meet these Section 254 requirements, teachers and students likely need at least some access to “social networking sites” if CIPA requires them to educate minors about them. Given the rise in cyberbullying, deepfakes, online scams, algorithms, and the potential addictive nature of social media, learning about “appropriate online behavior regarding social networking sites” may be even more important today than when the Protecting Children in the 21st Century Act was adopted.

Schools need the ability to limit access to problematic social media sites they deem inappropriate and to allow access to certain sites when they teach appropriate use. Benton notes that social

media messaging services are sometimes parents' preferred way to communicate with children, and any local blanket ban should be considered with parental input.

XVII. The Science on Social Media Harms is Not Yet Settled

Parents, educators, and doctors share concerns that student social media use leads to issues like cyberbullying and underdeveloped social skills.¹⁵² Their preferred solutions, however, are for the federal and state governments to require social media companies to make changes to protect student safety and privacy.¹⁵³

Even if the Commission were to conclude—incorrectly, in Benton's view—that it has authority to regulate educational uses of social media through E-Rate conditions, the record does not support the specific actions the Commission contemplates.

On several occasions, the Commission references social media's harmful impact, but not all social media is harmful, and science is not settled on the specific links.

People often cite data publicized by the U.S. Department of Health and Human Services showing that children and adolescents who spend more than three hours a day on social media face double the risk of poor mental health outcomes.¹⁵⁴

¹⁵² National Education Association. “Impact of Social Media and Personal Devices on Mental Health.” NEA, August 12, 2024. <https://www.nea.org/resource-library/impact-social-media-and-personal-devices-mental-health>.

¹⁵³ Id.

¹⁵⁴ U.S. Department of Health and Human Services, Office of the Surgeon General. *Social Media and Youth Mental Health: The U.S. Surgeon General's Advisory*. HHS, 2023. <https://www.hhs.gov/surgeongeneral/reports-and-publications/youth-mental-health/social-media/index.html>.

But other research has failed to establish a causal relationship between heavy social media use and children's mental health issues.¹⁵⁵ A study published in *The Journal of Pediatrics* in 2023 suggested that excessive social media use could be a symptom, rather than a cause, of poor mental health."¹⁵⁶

And as the Electronic Frontier Foundation has pointed out:¹⁵⁷

Independent researchers, including developmental psychologists from institutions like the University of California, Irvine, and Brown University, have repeatedly found that the evidence for such claims is mixed, blurry, and often contradictory. Large-scale meta-analyses covering dozens of countries have failed to show a consistent, measurable association between the rollout of social media and a decline in global well-being. In reality, we are seeing a classic case of what many of our middle school science teachers warned us about: "correlation" being sold as "causation."

Research has consistently disproven the oft-assumed link between social media use and poor mental health in youth, and actually indicates that moderate internet use is a net

¹⁵⁵ Thimm-Kaiser, M., and K.M. Keyes. "US State Policies Regarding Social Media: Do Policies Match the Evidence?" *Milbank Quarterly* 103 (2025): 337–365. <https://doi.org/10.1111/1468-0009.70021>.

¹⁵⁶ Gray, Peter, David F. Lancy, and David F. Bjorklund. "Decline in Independent Activity as a Cause of Decline in Children's Mental Wellbeing: Summary of the Evidence." *Journal of Pediatrics*, accepted for publication February 2023. https://www.petergray.org/_files/ugd/b4b4f9_0a7c4a1f099b4cadb05aa17210b8524c.pdf.

¹⁵⁷ Alajaji, Rindala. "The Science Is Not Settled: How Weak Evidence Is Fueling a National Push to Ban Social Media for Youth." Electronic Frontier Foundation, May 13, 2026. <https://www.eff.org/deeplinks/2026/05/science-not-settled-how-weak-evidence-fueling-national-push-ban-social-media-youth>.

positive for teens' development, and negative outcomes are usually due to either lack of access or excessive use.

XVIII. Government-Imposed Social Media Bans are Often Ineffective

So far, early evidence from countries like Australia,¹⁵⁸ Indonesia¹⁵⁹ and Malaysia¹⁶⁰ indicates that government social media bans for children are ineffective at keeping young people off the platforms. Children have generally been adept at maintaining access through technical workarounds like VPNs or by fooling age-verification systems.

For example, in Australia, where the government implemented a social media ban on children and teens under 16 that took effect last December, the government has since reported that more than 80 percent of children who were surveyed reported using at least one age-restricted service three months after the ban started.¹⁶¹ Experts at the University of Newcastle in Australia said the country's policy had not led to a substantive change in children's daily use. A study in the British

¹⁵⁸ Kim, Victoria. "What to Know About Australia's Social Media Ban: The Country Is Barring Children Under 16 from Social Media, with a Sweeping Federal Law That Is One of the First Attempts at a Nationwide Regulation." *The New York Times*, December 7, 2025, updated January 15, 2026. <https://www.nytimes.com/2025/12/07/world/asia/australia-social-media-ban-how-what.html>.

¹⁵⁹ Wee, Sui-Lee. "Indonesia to Block Children Under 16 From Social Media: The Ban Is to Take Effect March 28, According to a Government Minister, but Details About How It Would Be Carried Out Were Scarce." *The New York Times*, March 6, 2026. <https://www.nytimes.com/2026/03/06/world/asia/indonesia-social-media-ban.html>.

¹⁶⁰ Saieed, Zunaira. "Malaysia Was Confident in Its Social Media Ban, but Kids Are Still Logged In: Officials Told Platforms to Verify Children's Ages Using Government-Issued Documents, Like Identity Cards. But the Companies Have balked, Apparently over Privacy Concerns." *The New York Times*, August 10, 2026, updated August 12, 2026. <https://www.nytimes.com/2026/08/10/world/asia/malaysia-social-media-ban-delayed.html>.

¹⁶¹ eSafety Commissioner. (2026). Early days, early insights: Understanding experiences of social media age restrictions at the three-month follow-up. Australian Government. <https://www.esafety.gov.au/sites/default/files/2026-08/Early-days-Early-Insights-SMMA-Evaluation-Understanding-experiences-of-social-media-age-restrictions-August2026.pdf#page=12>

Medical Journal found that more than 85% of kids and teens under 16 reported continuing to use social media after the ban took effect.¹⁶² The Australian eSafety Commissioner's survey found that nearly 70 percent of under-16s with accounts on Instagram, Snapchat or TikTok had maintained access.

Likewise, in the United Kingdom, where the Online Safety Act's child safety duties came into force a year ago, its Department for Science, Innovation and Technology (DSIT) recently released a report that found 26% of 11- to 17-year-olds were able to get around the ban where the most common reason cited was for privacy.¹⁶³

These bans have not only been ineffective, but they have also come at a cost, with unintended negative consequences for many kids. For example, in Australia, more than half of under-16s significantly impacted by the ban are now getting less news, according to a recent survey.¹⁶⁴

There are also reports of children with disabilities becoming more and more isolated without the connections that they used to reach online.¹⁶⁵

¹⁶² Barnes C, Hall A, Mantach S, Oldmeadow C, Attia J, Backholer K et al. Assessing early effects of Australia's Social Media Minimum Age Act on adolescents' social media use: observational study *BMJ* 2026; 393 :e363695 doi:10.1136/bmj-2026-363695

¹⁶³ United Kingdom, Department for Science, Innovation & Technology. *Children's Circumvention Behaviours Online*. Independent report. London: DSIT, July 14, 2026. <https://www.gov.uk/government/publications/childrens-circumvention-behaviours-online/childrens-circumvention-behaviours-online>.

¹⁶⁴ Notley, Tanya, Simon Chambers, Michael Dezuanni, Sora Park, and Jee Young Lee. *Social Media Ban: The Impact on Young People's News Engagement*. Western Sydney University, Queensland University of Technology, and University of Canberra, May 18, 2026. DOI: 10.60836/g8pa-9888. <https://apo.org.au/node/334363>.

¹⁶⁵ Close-Brown, Eelemarni. "'I've Lost My Friends': Advocacy Groups Warn Australia's Social Media Ban Risks Isolating Kids with Disabilities." *The Guardian*, February 6, 2026. <https://www.theguardian.com/australia-news/2026/feb/06/ive-lost-my-friends-advocacy-groups-warn-australias-social-media-ban-risks-isolating-kids-with-disabilities>.

At the same time, as the Internet Society points out, safety goals can be undermined when children look for alternative, and often riskier, online services or seek circumvention tools when online restrictions are implemented.¹⁶⁶

XIX. The Commission Has No Authority to Opt Students Out of Digital Learning or Testing

The Commission seeks “comment on whether, and to what extent, we should require, as a condition of receiving E-Rate support, that participating schools provide parents with a meaningful opportunity to opt their children out of screen-based instruction or screen use during the school day.”

The Commission has no authority over instructional decisions. Instructional decisions are appropriately left to states, school boards, educators, and legislators. The Commission’s apparent intent in this proceeding to limit student access to learning technologies is beyond its authority and could have broad long-term consequences, including on issues as narrow but important as testing and measures of long-term academic achievement.

According to the US Department of Education, the National Assessment of Educational Progress (NAEP) digital assessments are administered on tablets or laptop computers, “use dynamic and innovative technologies to provide an engaging assessment experience for students and more meaningful data about students’ skills and knowledge for educators.”¹⁶⁷ Doing things digitally

¹⁶⁶ Internet Society. *Age Restrictions and Online Safety*. Public Policy Brief. Internet Society, December 2025. <https://www.internetsociety.org/wp-content/uploads/2025/12/Age-Restrictions-and-Online-Safety-Policy-Brief-EN.pdf>.

¹⁶⁷ National Assessment of Educational Progress. “Digitally Based Assessments” <https://nces.ed.gov/nationsreportcard/dba/>

has allowed NAEP “to increase participation and provide universal access to students of all learning backgrounds, including students with disabilities and English learners.” Because nearly all states use digital statewide testing, screen-based test practice is necessary.

However, nothing in the Telecommunications Act gives the Commission authority over the instructional content schools teach or how they teach it, nor does it give the Commission authority to allow opting out of statewide or other online tests.

The Commission asks about student supervision in the classroom. The Telecommunications Act does not provide the Commission with any authority over how teachers supervise their classrooms.

XX. The Commission Suggests an Unauthorized Interpretation of “Unauthorized Access”

Under Section 254(l)(1)(iii) of the Communications Act, internet safety policies must address “unauthorized access, including so-called ‘hacking’, and other unlawful activities by minors online.” The Commission seeks comment on the meaning of “unauthorized access” and whether it encompasses any material devoid of “educational purposes” (e.g., students scrolling through social media instead of doing online research) for E-Rate per section 254(h)(1)(B) of the Communications Act. The Commission also asks, “could ‘unauthorized access’ mean that the student accessed a computer in excess of an Internet safety policy’s prescribed number of hours.”

Including “scrolling,” information devoid of “educational content,” or access to the internet beyond a “prescribed number of hours” goes far beyond the conventional definition of

unauthorized access. For example, the Computer Fraud and Abuse Act,¹⁶⁸ the primary anti-hacking statute that defines seven categories of unauthorized computer access, none of which include scrolling, material devoid of educational purpose, or time limits. In the Supreme Court’s 2021 opinion *Van Buren v. United States*, the court held that unauthorized access has a narrow definition.¹⁶⁹ Writing for the majority, Justice Amy Coney Barrett focused on the definition of unauthorized access, which applies to someone who obtains information they are "not entitled to obtain." A person only "exceeds authorized access" if they hack technical or system-level barriers to enter files, folders, or databases that are completely off-limits to them.

Given the broad precedents around definitions of hacking and unauthorized computer access, Benton finds it unlikely any court would understand “scrolling” or accessing common websites like YouTube.com, FCC.gov, or a weather website (to see if the after-school game might be canceled) to be accurately defined as hacking or gaining “unauthorized access,” as the term is statutorily and as has been generally defined by Congress.

Furthermore, the Commission should not be the arbiter of what is “educational content” and what is devoid of educational content.

XXI. Clarifying the Scope of Student Online Monitoring

The Commission asks about updating definitions under CIPA, and seeks “comment on the meaning of 'monitoring the online activities of minors' and how such monitoring should be used to advance the educational purposes of the E-Rate program.

¹⁶⁸ 18 U.S.C. § 1030 (2018).

¹⁶⁹ *Van Buren v. United States*, 593 U.S. 374 (2021).

Benton agrees with the Center for Democracy & Technology’s (CDT) longstanding position that the Commission should clarify the scope of CIPA’s ‘monitoring’ provision.¹⁷⁰ As CDT argued in this docket in 2022, CIPA does not require the invasive surveillance of students—the statute itself includes an express disclaimer that “[n]othing in this Act shall be construed to require the tracking of Internet use by any identifiable minor or adult user.” The Commission has the authority, and the obligation, to clarify that ‘monitoring’ is narrow and limited to the minimal data collection needed to achieve CIPA’s child safety goals and that it does not require the technically sophisticated surveillance software that many schools have adopted based on an overbroad reading of the statute. Clarifying this interpretation would protect student privacy, reduce inequitable burdens on low-income students and students of color who are disproportionately reliant on school-issued devices, and ensure that E-Rate-funded connectivity serves its educational purpose without becoming an instrument of surveillance.

Benton notes the 2022 Senate investigation which outlined a variety of ways monitoring software was being abused and recommended the Commission “clarify the definition of ‘monitoring the online activities’ as mentioned in CIPA, and work to ensure that products used by schools maintain student safety and privacy.”¹⁷¹ Research shows that schools have interpreted CIPA’s past requirements as requiring AI-driven, persistent monitoring of students, despite the bill being enacted long before this technology existed.

¹⁷⁰ Center for Democracy & Technology. *Ex Parte Presentation*. Letter from Elizabeth Laird and Cody Venzke to Marlene H. Dortch, Secretary, FCC, Re: WC Docket Nos. 21-476, 21-93, and 13-184. June 7, 2022. <https://www.fcc.gov/ecfs/document/10607186828920/1>

¹⁷¹ Warren, Elizabeth, and Edward J. Markey, U.S. Senators. *Constant Surveillance: Implications of Around-the-Clock Online Student Activity Monitoring*. U.S. Senate, March 2022. <https://www.warren.senate.gov/wp-content/uploads/media/doc/356670%20Student%20Surveillance.pdf>.

CDT surveys have revealed that almost three-quarters of teachers and students whose schools use invasive monitoring technology report that it impedes students' ability to complete schoolwork.¹⁷² Teachers also reported that this impacts marginalized students more, with about one-third agreeing that content associated with gender expansive students is more likely to be filtered or blocked.

CIPA does not require the invasive surveillance of students, and the Commission has the authority to clarify its interpretation of 'monitoring the online activities' as mentioned in CIPA. The Act does not define the term "monitoring" but instead includes an express "disclaimer" that "[n]othing" in the statute "shall be construed to require the tracking of Internet use by any identifiable minor or adult user." Instead of scanning students' messages or actively monitoring their open applications or browser tabs, schools should engage parents and community members to supervise students' online activities and coach them on digital literacy and online citizenship.

As a group of digital rights and civil liberty leaders (including the ACLU, CDT, EFF, Fight for the Future, Free Press Action, New America's Open Technology Institute, and Public Knowledge among others) have explained:¹⁷³

"CIPA's monitoring requirement never intended for children and families to be surveilled, research has shown that schools have interpreted CIPA's past requirements to require AI-

¹⁷² Laird, Elizabeth, Maddy Dwyer, and Kristin Woelfel. *Out of Step: Students, Teachers in Stride with EdTech Threats While Parents Are Left Behind*. Center for Democracy & Technology, January 15, 2025. <https://cdt.org/wp-content/uploads/2024/12/CDT-Out-of-Step-010225.pdf>.

¹⁷³ American Civil Liberties Union, Center for Democracy & Technology, Electronic Frontier Foundation, et al. Letter to Chairman Ted Cruz and Ranking Member Maria Cantwell, Senate Committee on Commerce, Science, and Transportation, Re: Concerns with S. 4213's Threats to Minors' Privacy and Safety Online. February 4, 2025. <https://cdt.org/wp-content/uploads/2025/02/Letter-on-KOSMA-250203.pdf>.

driven, persistent monitoring of students, despite the bill being enacted long before this technology even existed. This misinterpretation has given tech companies the opportunity to sell dangerous and discriminatory online activity monitoring technologies to be used against kids in schools, logging families' online browsing, search history, chats, and keystrokes.” (Emphasis added.)

XXII. Fostering a Shared Responsibility Framework

The Commission asks, “Who is better situated to protect the online safety of children and minors that use E-Rate-funded networks – the Commission, parents and guardians, teachers, or a combination of all these parties?”

As the Department of Education says in its August 2026 open letter, it’s a shared responsibility.

“Building public confidence and trust in education technology requires collaboration among states, school districts, educators, families, researchers, and education technology providers. States establish policy and procurement expectations. School districts create the conditions for successful implementation. Educators integrate technology into effective instruction. Families provide important partnership and feedback. Researchers contribute objective evidence about what works. Education technology providers develop and refine the tools that support teaching and learning. Each partner has a distinct role, but all share responsibility for ensuring that education technology advances student learning. When every partner accepts responsibility for outcomes— not simply implementation—we strengthen public confidence while encouraging continued innovation.” (Emphasis added.)

But when it comes to student use of technology, the Department says, “The U.S. Department of Education believes these decisions are best made by states and local communities, with input from parents and teachers.”

XXIII. The Commission Should Acknowledge the Limitations of Filters

The Commission seeks comments on network-level filtering for “applying the filter to any device that connects to the network) to ensure all devices that are used by minors and connect to E-Rate-funded networks are protected from content that is obscene, child pornography, or harmful to minors”

Network-based web filters should be added to the E-Rate Eligible Services List, as should other cybersecurity technologies.

However, research shows that filters are imperfect and consistently both over- and under-block the content they claim to filter. For example, CDT found that strict content filters block students from accessing critical educational resources, with almost three-quarters of students and teachers reporting it interferes with schoolwork. CDT found that 46 percent of students report that content filtering and blocking software has impeded them from completing a school assignment three or more times in a past school year (2023–24). Sixty-two percent (62%) of students report using workarounds to avoid this technology, and 75 percent of teachers report that students have used workarounds to avoid the school’s content filtering and blocking technology.¹⁷⁴

¹⁷⁴ Center for Democracy & Technology. *Ex Parte Presentation*. Letter from Elizabeth Laird and Cody Venzke to Marlene H. Dortch, Secretary, FCC, Re: WC Docket Nos. 21-476, 21-93, and 13-184. June 7, 2022. <https://www.fcc.gov/ecfs/document/10607186828920/1>

Too often, minority viewpoints, religions, or controversial topics are labeled as objectionable or offensive and blocked. For example, CDT's survey also found that more black and Hispanic students than white students report that certain types of content are more likely to be filtered or blocked by their school: 42% of black, versus 28% of white students, report that content that's associated with or about students of color is more likely to be filtered or blocked by their school.¹⁷⁵

As the American Library Association points out, in libraries “the use of Internet filters to block constitutionally protected speech, including content on social networking and gaming sites, compromises First Amendment freedoms and the core values of librarianship.”¹⁷⁶ The Supreme Court upheld CIPA requirements in public libraries based on the idea that adults could request filters be turned off. However, in practice, filters are rarely turned off, or they aren't turned off within an adequate timeframe. These delays in unblocking content can function as a form of censorship.

ALA also points out that in schools, the CIPA rules are often misinterpreted. This leads to:

- overly strict filtering that blocks legally protected content;
- preventing educators from using the internet for teaching; and
- stopping students from accessing content for assignments and personal interests.

Students may also be blocked from using interactive websites and social media for learning. This limits opportunities to create and share original content like documents, videos, and music.

¹⁷⁵ Id.

¹⁷⁶ American Library Association. Filters and Filtering.
<https://www.ala.org/advocacy/intfreedom/filtering>

The Commission must remember that filters are imperfect and can block constitutionally protected speech.

XXIV. The Commission Should Not Use Child Safety as a Pretext for Content Control

Given the Commission's extensive efforts to punish disfavored speech in other contexts,¹⁷⁷ Benton has concerns that the Commission could broaden the use of internet filters, combined with an expansive definition of "harmful to minors," to block disfavored views across all schools and libraries. Such restricted information might include constitutionally protected material.

For example, the President has signed directives, including an Executive Order, "Ending Radical Indoctrination in K-12 Schooling," that describes content the President has described as "harmful" to minors in order to restrict how history is taught and how classrooms discuss race, gender, and equity.¹⁷⁸ The order describes a "Patriotic education" of history that limits access to certain historical facts, such as restricting content to what the President calls "the truth about American History."¹⁷⁹ The President has directly threatened to withhold funding from schools that teach about slavery and to root out school content associated with "diversity, equity, and inclusion."¹⁸⁰

¹⁷⁷ Koblin, John. "ABC Formally Rebukes F.C.C. for Review of TV Licenses." *The New York Times*, July 30, 2026. <https://www.nytimes.com/2026/07/30/business/media/abc-fcc-tv-licenses.html>.

¹⁷⁸ Exec. Order No. 14190, "Ending Radical Indoctrination in K-12 Schooling," 90 Fed. Reg. 8853 (Feb. 3, 2025), available at <https://www.whitehouse.gov/presidential-actions/2025/01/ending-radical-indoctrination-in-k-12-schooling/>.

¹⁷⁹ Alford, Natasha S. "Trump Threatens to Defund Schools That Teach About Slavery." Yahoo News, October 18, 2024. <https://www.yahoo.com/news/trump-threatens-defund-schools-teach-155006275.html>.

¹⁸⁰ Id.

We've also seen examples of how these "DEI" restrictions have led to overly broad restrictions on internet access and to historical information and educational materials.¹⁸¹ For example, the President's Executive Order on "Restoring Truth and Sanity to American History" warns of "harmful" content and seeks to reshape the way American history is taught and represented by requiring the Smithsonian Institution to remove "descriptions, depictions, or other content that inappropriately disparage Americans past or living (including persons living in colonial times), and instead focus on the greatness of the achievements and progress of the American people or, with respect to natural features, the beauty, abundance, and grandeur of the American landscape."¹⁸²

The Executive Order states:

"Once widely respected as a symbol of American excellence and a global icon of cultural achievement, the Smithsonian Institution has, in recent years, come under the influence of a divisive, race-centered ideology. This shift has promoted narratives that portray American and Western values as inherently harmful and oppressive.... Museums in our Nation's capital should be places where individuals go to learn—not to be subjected to ideological indoctrination or divisive narratives that distort our shared history."¹⁸³

¹⁸¹ Lowenkron, Hadriana. "Trump to End Biden-Era Program to Bridge Digital Divide." *Bloomberg*, May 8, 2025. <https://www.bloomberg.com/news/articles/2025-05-08/trump-to-end-biden-era-program-to-bridge-digital-divide>.

¹⁸² Exec. Order No. 14253, "Restoring Truth and Sanity to American History," 90 Fed. Reg. 14563 (Apr. 3, 2025), available at <https://www.federalregister.gov/documents/2025/04/03/2025-05838/restoring-truth-and-sanity-to-american-history>.

¹⁸³ *Id.*

Given the reported close coordination between the White House and Commission leadership,¹⁸⁴ Benton strongly cautions against the Commission's effort in this proceeding to casually consider extending the definition of "harmful to minors," or expanding the use of filters to block constitutionally protected speech.

As Section 254(l)(2) of the statute states:

"A determination regarding what matter is inappropriate for minors shall be made by the school board, local educational agency, library, or other authority responsible for making the determination." (Emphasis added.)

XXV. The Commission Should Strengthen K-12 Cybersecurity Resilience

To the extent the Commission is focused on Section 254(l)(1)(iii)—hacking, unauthorized access, and network security—it should either make permanent its Cybersecurity Pilot or specifically expand the E-Rate's eligible services to cover a range of cybersecurity protections such as next-generation firewalls, endpoint security, and filtering in addition to the services covered under the pilot.

Following a seemingly endless parade of hacking incidents from advanced AI models,¹⁸⁵ OpenAI, Anthropic, Microsoft, AWS, and more than 100 other companies signed an open letter with a dire warning that organizations now only have months to prepare for AI-enabled

¹⁸⁴ Barr, Jeremy. "Revealed: FCC Chair Brendan Carr's Close Coordination with White House and Rightwing Media." *The Guardian*, August 19, 2026. <https://www.theguardian.com/media/ng-interactive/2026/aug/19/brendan-carr-fcc-white-house-exclusive>.

¹⁸⁵ Dave, Paresh, and Brian Barrett. "OK, Well, Rogue AI Agents Are Hacking Again." *Wired*, August 4, 2026. <https://www.wired.com/story/ok-well-there-are-even-more-ai-agent-hacking-incidents/>.

cyberattacks.¹⁸⁶ The letter warns that “In the coming months, AI-enabled cyber attacks will become far more widespread and sophisticated as models around the world become increasingly capable.” The signatories suggest that cybersecurity become an immediate priority and suggest the government should “[f]und cyber defense, starting with essential services that lack the staff or budget to act.”¹⁸⁷

Even before these AI accelerants, schools' cybersecurity threats have been accelerating, becoming more sophisticated, and putting student privacy at risk. According to the Department of Education, school districts nationwide experience an average of five cyber incidents per week.¹⁸⁸ According to data from Whiteboard Advisors, 52 percent of U.S. school districts experienced a cybersecurity incident in 2025, a 16-percentage-point increase year over year.¹⁸⁹

The education sector has one of the highest rates of ransomware attacks. Just one technology vendor's data breach in December 2024 affected more than 60 million students across thousands of school districts.¹⁹⁰

Schools collect and store extensive sensitive data on students—including academic records, disciplinary histories, mental health information, and personally identifiable information for

¹⁸⁶ OpenAI. "A Call for Collective Action on Cyber Defense: An Open Letter for a Global Surge in Cyber Defense." OpenAI (March 14, 2026) <https://openai.com/collective-cyberdefense/>.

¹⁸⁷ Id.

¹⁸⁸ U.S. Department of Education. “K-12 Cybersecurity: Learn how ED supports K-12 cybersecurity resilience.” (Last visited October 3, 2026) <https://www.ed.gov/teaching-and-administration/safe-learning-environments/school-safety-and-security/k-12-cybersecurity>

¹⁸⁹ Popoff, Evo, and Daimen Sagastume. "Cybersecurity Breaches Are the 'New Normal' for K-12." Whiteboard Advisors (March 14, 2026) <https://whiteboardadvisors.com/cybersecurity-breaches-are-the-new-normal-for-k-12/>.

¹⁹⁰ Collier, Kevin. "Children's Data Hacked After School Software Firm Missed Basic Security Step, Internal Report Says." *NBC News*, January 31, 2025. <https://www.nbcnews.com/tech/security/powerschool-hack-data-breach-protect-student-school-teacher-safe-rcna189029>.

minors—making them high-value targets for cyberattacks. Advanced AI models and other AI-enabled phishing threats pose a significant new risk to schools, putting their financial stability, student data privacy, and day-to-day operations in serious jeopardy. Educational institutions, long plagued by tight budgets and legacy IT systems, are now prime targets for these automated threats. An Education Week survey found that, because of AI, 51 percent of education leaders expect cyberattacks against their district or school to become more severe next year.¹⁹¹ The survey also found that in the last five years, 11 percent say their school or district suffered a schoolwide or districtwide hack that forced it to close for a day or longer.¹⁹² Likewise, a CDT survey found that one in four teachers report their school has experienced a large-scale data breach in the past school year (2023–24).¹⁹³

Following an increase in cybersecurity attacks on schools, Congress passed the K-12 Cybersecurity Act of 2021.¹⁹⁴ The Act requires the Cybersecurity and Infrastructure Security Agency (CISA) to develop a report on the cybersecurity risks schools face, along with accompanying recommendations. In *Protecting Our Future: Partnering to Safeguard K-12 Organizations from Cybersecurity Threats*, CISA found, “There is a clear need for increased cybersecurity budgeting and support mechanisms across the community. This resource shortfall

¹⁹¹ Prothero, Arianna. “Why AI Is a Big Problem for School Cybersecurity.” *Education Week*, February 17, 2026. <https://www.edweek.org/technology/why-ai-is-a-big-problem-for-school-cybersecurity/2026/02>.

¹⁹² *Id.*

¹⁹³ Laird, Elizabeth, Maddy Dwyer, and Kristin Woelfel. *Out of Step: Students, Teachers in Stride with EdTech Threats While Parents Are Left Behind*. Center for Democracy & Technology, January 2025. <https://cdt.org/wp-content/uploads/2024/12/CDT-Out-of-Step-010225.pdf>.

¹⁹⁴ K-12 Cybersecurity Act of 2021, Pub. L. No. 117-47, 135 Stat. 397 (Oct. 8, 2021), available at <https://www.congress.gov/bill/117th-congress/senate-bill/1917>.

is a major constraint to implementing effective cybersecurity programs across all K-12 entities.”¹⁹⁵ CISA also suggested schools adopt next-generation security technologies.¹⁹⁶

However, today’s growing challenges have been exacerbated by recent federal government cuts to programs that support school cybersecurity, like the Multi-State Information Sharing and Analysis Center (MS-ISAC), which is a cybersecurity resource hub and a major provider of free cybersecurity training and support for schools, the suspension of the K-12 Cybersecurity Government Coordinating Council, and the closing of the Department of Education’s office of educational technology that helped schools and districts navigate challenges like cybersecurity.

Schools should focus on teaching young people, not worrying about fending off ransomware attacks or recovering from cyber incidents. No family should have to worry that a cyberattack could expose a child’s personal information or disrupt their education.

These growing threats and shrinking resources make the Commission’s \$200 million 3-year cybersecurity pilot program, which helps schools and libraries purchase cybersecurity products and services through the E-rate program, even more essential.¹⁹⁷ Given the overwhelming response to the Commission’s cybersecurity pilot—2,700 requests for more than \$3.7 billion, more than 18 times the allocated funding (but only 707 were selected to participate) — it is clear that cybersecurity threats impacting school systems are widespread and that funding is needed.

¹⁹⁵ Cybersecurity and Infrastructure Security Agency (CISA), U.S. Department of Homeland Security. *Protecting Our Future: Partnering to Safeguard K–12 Organizations from Cybersecurity Threats*. CISA, January 2023. https://www.cisa.gov/sites/default/files/2023-01/K-12report_FINAL_V2_508c_0.pdf.

¹⁹⁶ *Id.*

¹⁹⁷ See Federal Communications Commission. “Schools and Libraries Cybersecurity Pilot Program” <https://www.fcc.gov/cybersecurity-pilot-program>

The Commission's Cybersecurity Pilot is a major step forward, but its limited scope cannot meet the magnitude of need.

The Commission should rise to the challenge and allow E-Rate beneficiaries to use program funds to protect their broadband networks from increasingly prevalent and costly cyberattacks, and, in the process, better protect student safety. Since 2017, more than 95 percent of E-Rate applicants have urged that network security and management tools be eligible for E-Rate funding.¹⁹⁸ To better protect students and E-Rate funded networks, schools should be able to fund technologies that help with intrusion detection/prevention (IDS/IPS), advanced threat protection (ATP), data loss prevention, distributed denial of service (DDoS) mitigation services, comprehensive data encryption, multi-factor authentication (MFA), and security information and event management (SIEM). The Commission should expand E-Rate eligible services to include web content filtering, expanded firewall services, advanced security services provided by a school system's ISP, and managed security services and security operations center services—helping schools better monitor their E-Rate networks.

XXVI. Special Construction and the Competitive Bidding Process are Vital Tools for Advancing Program Efficiency

The Commission notes that the 2014 Second E-Rate Order¹⁹⁹ included changes for special construction (i.e., construction of network facilities that the applicant will own) and suggests there “were subject to significant legal and policy criticism at the time and have raised ongoing

¹⁹⁸ Funds for Learning. 2024 E-Rate Trends Report. Funds for Learning, 2024. <https://fundsforlearning.app.box.com/v/2024TrendsReport>.

¹⁹⁹ Second E-Rate Order, 25 FCC Rcd 15555 (2014).

concerns about facilitating subsidized overbuilding and distorting competitive markets.”²⁰⁰ The Commission now asks: “Does continued support for self-provisioned network construction and dark fiber risk displacing private investment or wasting federal resources on duplicative infrastructure, particularly as programs such as the Broadband Equity, Access, and Deployment (BEAD) program administered by NTIA and established in 2021 are aimed at ensuring high-speed broadband availability in any remaining unserved and underserved areas, including for community anchor institutions?”²⁰¹

In 2014, the Commission adopted two modernization orders to speed the deployment of high-speed broadband by widening the effective options available to schools, including in circumstances where the most cost-effective solution is the “special construction” of fiber rather than use of an incumbent network.²⁰² In simple terms, special construction allows a school or library to pay to provision a fiber connection as a cost-effective way to obtain broadband access. Where there is no broadband provider offering service, special construction may be necessary if a school or library is to have any broadband at all. Even where broadband service exists, special construction may still be the most cost-effective solution. As the Commission explained, “allowing E-rate applicants to own all or portions of their own networks can help deliver the most cost-effective broadband services and provide financial stability for certain E-rate recipients.”

²⁰⁰ NPRM ¶22 (citing Letter from Michael O’Rielly, Commissioner, FCC, to Chris Hendersdon, CEO, USAC (Feb. 7, 2017), <https://docs.fcc.gov/public/attachments/DOC-343462A1.pdf>).

²⁰¹ Id.

²⁰² Modernizing the E-Rate Program for Schools and Libraries; Connect America Fund, Second Report and Order and Order on Reconsideration, 29 FCC Rcd 15538 (2014); Modernizing the E-Rate Program for Schools and Libraries, Report and Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd 8870 (2014).

In 2019, Benton and EducationSuperHighway explained that the Commission’s 2014 special construction rules are important and successful.²⁰³ In addition to its success, Benton and EducationSuperHighway highlighted challenges, including USAC improperly delaying and denying applications in school districts where children need access to fiber but were unfairly prevented from accessing it.

Special construction is a vital tool for accelerating school and library fiber deployment. A decision to weaken the E-Rate special construction rule will likely once again delay needed fiber upgrades and require schools to continue relying on outdated, less cost-effective technologies (per megabit) or adopt less cost-effective, non-scalable approaches, which will mean schools pay more. For example, schools may be forced to aggregate commercial T1 connections when those services are the more expensive option.

For example, Benton and EducationSuperHighway highlighted a case that involved the Corporation for Education Network Initiatives in California (CENIC), which administers E-rate funding on behalf of K-12 schools throughout the state.²⁰⁴ In this case, an AT&T bid (the second lowest of the bids per school) was about 2.7 times higher than Time Warner’s winning special construction bid, which not only shows how special construction can save the program money, but also demonstrates that the competitive bidding process did what it was intended to do: it facilitated the most cost-effective service over 5 years for E-rate eligible schools. So, when the

²⁰³ “Improving the Administration of E-Rate: Ensuring All Schoolchildren Get the High-Speed Broadband Connections They Need.” Evanston, IL: Benton Foundation, March 2019.

<https://www.benton.org/sites/default/files/E-RateWhitePaper.pdf>

²⁰⁴ Id.

Commission asks, “Should funding for special construction be limited to those areas that are served by only one service provider?” Benton’s answer is: No.

The Commission must ensure that school districts whose children need reliable, affordable, high-speed internet service are not unfairly prevented from using fiber, and must ensure schools and libraries can adopt the most cost-effective solutions (on a per-megabit basis) that can scale their bandwidth over time. As the Commission has explained, paying cost-effective, upfront costs can reduce total deployment costs (by eliminating financing costs) while providing a more certain path to reimbursement, which incentivizes schools and libraries to launch special construction projects.

The success of these special construction and other fiber projects has improved the cost-effectiveness of E-rate-supported purchases and helped reduce the per-Mbps cost of school and library broadband. Between 2013 and 2019, Education Superhighway estimated that the cost of K-12 internet access declined by 90%, going from \$22 per Mbps to \$2.24 per Mbps.²⁰⁵

According to the 2023 Connect K-12 Report on School Connectivity, the median cost per megabit decreased from \$1.85 in 2020 to \$1.01 in 2023, making bandwidth upgrades more affordable for schools.²⁰⁶ School districts meeting or exceeding the FCC’s 1 Mbps per student goal continue to pay less (on a per megabit basis) than districts not meeting the goal, paying well above the median price.

²⁰⁵ EducationSuperHighway. *2019 State of the States: The Classroom Connectivity Gap Is Closed*. EducationSuperHighway, 2019. <https://www.educationsuperhighway.org/wp-content/uploads/2019-State-of-the-States-Full-Report-EducationSuperHighway-1.pdf>.

²⁰⁶ Connected Nation and Funds for Learning. *2023 Report on School Connectivity*. Connect K-12, 2023. https://connectk12.org/static/media/Connect_K12_Connectivity_Report_2023_FINAL.dfc96770.pdf.

The Commission in this proceeding seeks “comment on the reason for program demand consistently falling below the program cap.” Benton’s answer, as outlined above, is that the costs of providing the same Mbps have fallen dramatically. These are the results of the Commission’s 2014 modernization order, which, among other things, sought to maximize “the cost-effectiveness of spending for E-rate supported purchases,” including through the support for scalable technologies like fiber, the use of special construction, and by equalizing the treatment between lit and dark fiber networks. It’s a proven, effective, and fiscally responsible solution.

The Commission now also suggests that the special construction provision in its 2014 order was “facilitating subsidized overbuilding.” Benton has previously weighed in with the Commission on proposals to prohibit E-Rate subsidies from going toward building or extending networks in areas where fiber already exists—what one group of Texas carriers had suggested was “overbuilding.”²⁰⁷ There’s a better word for the construction of new networks than “overbuilding.” The word is “competition.” “Overbuilding” is an engineering concept; competition is an economic concept that helps consumers because it shifts the focus from counting broadband networks to counting the dollars that consumers save (or schools and the E-rate program save) when they have competitive choices.

The Commission has previously rightfully rejected limitations on competition for special-construction projects because they would limit a school’s choice to purchase more affordable broadband service. The Commission asks now whether “continued support for self-provisioned

²⁰⁷ Sallet, Jonathan. Comments of the Benton Foundation, *Texas Carriers' Petition to Prohibit Use of E-Rate Fund to Build Fiber Networks Where Fiber Networks Already Exist*, RM-11841; *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6; *Modernizing the E-Rate Program for Schools and Libraries*, WC Docket No. 13-184 (July 1, 2019). Available at <https://www.fcc.gov/ecfs/document/1070198417798/1>.

network construction and dark fiber risk displacing private investment or wasting federal resources on duplicative infrastructure.” The answer is: No. In fact, the opposite is true. Such a move would limit and interfere with the competitive bidding process, which is the E-Rate program’s primary tool for ensuring schools and libraries select the most cost-effective option. Without special construction, E-Rate recipients would have to pay more than is required by mandating they select more expensive options than are available—an outcome that would be wasteful.

In considering suggestions of funding “duplicative” services, in the Second E-Rate Modernization Order, the Commission previously explained that “*because E-Rate applicants’ requests for bids are publicly available, providers all have an equal opportunity to bid to provide E-Rate services, and we expect that where there are existing providers and networks capable of providing service at the targeted speeds, they will be well situated to offer very competitive pricing through the competitive bidding process.*”²⁰⁸

Efforts aimed at limiting competition, at restricting or eliminating special construction in an effort to restrict so-called “overbuilding” have the potential to waste limited E-Rate resources, leave schools that need high-speed broadband on the wrong side of the digital divide, dramatically raise school costs, increase burdens on school and library applicants, prevent schools from meeting the Commission’s broadband-speed targets, and slow the rollout of scalable fiber across the country. In fact, the proposal could lead to a dangerous state of “underbuilding” of high-speed, fiber networks.

²⁰⁸ Modernizing the E-Rate Program for Schools and Libraries; Connect America Fund, Second Report and Order and Order on Reconsideration, 29 FCC Rcd 15538, 15559 (2014). (Emphasis added.)

The current item suggests the Commission wants to avoid subsidizing potentially duplicative services. The rules the Commission already has in place prohibit duplicative service and ensure that the most cost-effective solution is awarded in an open and fair competitive bidding process. As a result, the E-Rate program, and the special construction provisions in particular, have been enormously successful, driven by a competitive bidding process that ensures schools can benefit from the most cost-effective options for enabling students to benefit from high-speed learning options. There simply is no reason to adopt changes that would shackle competition or change something that is working so well and is essential for our children's learning future.

XXVII. The Importance of the Lowest Corresponding Price

Speaking about the scope and clarity of the Lowest Corresponding Price (LCP) rule, the Commission asks, “For example, should we make the rates that service providers charge E-Rate eligible schools and libraries for E-Rate eligible services and equipment more easily available to the public (e.g., in an annual or other report, or in an LCP-specific public database) so that schools and libraries can review the rates and ensure they are being charged the LCP?” and “Should we require that the LCP be the median of all available rates for functionally similar services? Are there other benchmarks we can use to determine the LCP?”

The LCP rule places an affirmative duty on service providers to actively offer schools and libraries their lowest comparable business/non-residential rates—meaning schools do not need to specifically ask for or negotiate the lower price. In school math classes, students learn that lowest and lower do not mean median. The Commission cannot find that the LCP is the median price.

The Commission asks, “Should the LCP continue to set the ceiling for a service provider’s pre-discount price when it submits a bid in response to an FCC Form 470 E-Rate competitive bidding form posted by a school or library? In areas where there is only one service provider that submits a bid response, should the service provider’s LCP continue to constitute the pre-discount price?”

The Commission should continue to take enforcement action against providers that do not follow the rules as it did when it found schools were being charged rates that were sometimes 400 to 500 percent higher than the lowest rate available to other customers.²⁰⁹ As the Commission’s Notice of Apparent Liability in that case asserted, “compliance with the LCP Requirement necessarily requires an ongoing, real-time process that evaluates the rates offered and charged for services provided to (or requested by) E-rate applicants with the rates to other similarly situated customers.” (Emphasis added)

XXVIII. The Commission Should Make the E-Rate Program Less Burdensome

The NPRM reads, “consistent with the Commission’s recent efforts to eliminate unnecessary and burdensome rules and regulations, we seek comment on a proposal to eliminate certain ECF program rules from the Code of Federal Regulations.” The Commission also seeks comment on “additional measures intended to improve the administration and oversight of the E-Rate program.”

Applying for E-Rate support can be cumbersome and time-consuming, especially for smaller entities. For example, in a 2023 report from the Public Library Association, 45.2 percent of

²⁰⁹ *Notice of Apparent Liability for Forfeiture*, BellSouth Telecommunications, LLC, d/b/a AT&T Southeast, 31 FCC Rcd 8501 (2016).

libraries said they didn't apply for the E-Rate because "it was too complicated or time-consuming."²¹⁰

In comments submitted to the Commission in 2023, the American Library Association made several proposals to simplify the process.²¹¹ These key points were reiterated in the 2025 Delete, Delete, Delete proceeding.²¹² Benton generally agrees with these recommendations, which include:

- Replace E-Rate program procurement rules with those of the applicable locality or state. The E-Rate program is extremely proscriptive when it comes to procurement policies, which is unnecessary as libraries already have procurement rules guiding virtually all purchasing. These state and local requirements ensure applicants purchase cost-effective equipment and services, which should address any concerns about program integrity.
- Clarify the Eligible Services List, reduce forms, enable flexibility for competitive bidding for small dollar amounts, and provide guidance and structure for navigating the process for applicants. This would reduce the amount of time the applicant needs to successfully

²¹⁰ Public Library Association. 2023 Public Library Technology Survey: Summary Report. Chicago: Public Library Association, 2024. https://www.ala.org/sites/default/files/2024-07/PLA_Tech_Survey_Report_2024.pdf

²¹¹ Inouye, Alan, Robert Bocher, Megan Janicki, and Larra Clark. Comments of the American Library Association, *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6; *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45; *Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, CC Docket No. 97-21 (Apr. 24, 2023). Available at <https://www.fcc.gov/ecfs/document/10424105807214/1>.

²¹² Janicki, Megan, Robert Bocher, and Marijke Visser. Suggestions of the American Library Association Addressing Regulatory Burdens of the E-Rate Program, *Delete, Delete, Delete: Seeking Public Input on Identifying FCC Rules for the Purpose of Alleviating Unnecessary Regulatory Burdens*, GN Docket No. 25-133. Available at <https://www.fcc.gov/ecfs/document/10411336522445/1>.

submit an E-Rate request, but it would also reduce staff time in reviewing and approving E-Rate applications.

- Provide in-person training opportunities for E-Rate administrators and new filers. Such training can help reduce filers' mistakes as they complete the application and speed up the approval process. We also believe in-person training may lead to more eligible libraries applying for the program by demystifying the process and empowering new filers to apply.

As Benton and other public interest groups filed in the Delete, Delete, Delete Proceeding,²¹³ which was also echoed in Schools, Health & Libraries Broadband (SHLB) Coalition comments,²¹⁴ Benton believes the Commission should:

- Delete FCC Form 486
- Eliminate the “extraordinary circumstance” invoice deadline waiver standard
- Delete USAC post-audit “policies and procedures” requirement

²¹³ Garner, Drew, et al. Reply Comments of Access Humboldt, the Benton Institute for Broadband & Society, Common Sense Media, Everyone On, Massachusetts Law Reform Institute, National Digital Inclusion Alliance, New America's Open Technology Institute, and Public Knowledge, *Delete, Delete, Delete*, GN Docket No. 25-133 (Apr. 28, 2025). Available at <https://www.fcc.gov/ecfs/document/10428944124107/1>.

²¹⁴ Corra, Kristen, and Jennifer McKee. Comments of the Schools, Health & Libraries Broadband (SHLB) Coalition, *Delete, Delete, Delete*, GN Docket No. 25-133; *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6; *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45; *Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, CC Docket No. 97-21; *Modernizing the E-Rate Program for Schools and Libraries*, WC Docket No. 13-184; *Promoting Telehealth in Rural America*, WC Docket No. 17-310; *Rural Health Care Support Mechanism*, WC Docket No. 02-60 (Apr. 11, 2025). Available at <https://www.fcc.gov/ecfs/document/10411178622012/1>.

- Delete statement that Demand Payment Letters cannot be appealed
- Eliminate program procedures that hinder transitioning between service providers
- Eliminate program procedures that disallow bandwidth increases
- Eliminate Form 470 drop-down menu category confusion

XXIX. The Commission Should Expand the Definition of Classroom

To ensure anywhere, anytime learning we need to recognize that classrooms are where students learn, and portable internet access devices can be another tool that can help extend a classroom's reach. Likewise, school buses are often digital learning deserts but could be connected learning labs, enabling kids to complete homework—especially in rural and urban communities with long commutes.

XXX. In-School Wi-Fi Should Not Be Restricted

Even though no proven scientific link exists between Wi-Fi RF and harm to children, this proceeding explores five separate ways to limit classroom Wi-Fi access and, in turn, children's exposure to Wi-Fi:

- 1) **Sunsetting the E-Rate and its investments in Wi-Fi.** The Commission raises fundamental questions about sunseting the E-Rate program—the primary mechanism funding classroom Wi-Fi access.
- 2) **Restricting investment in Wi-Fi Access Point equipment.** The Commission has separately raised fundamental questions of limiting E-Rate funding to either “services”

(and thus not for equipment including Wi-Fi access points, routers, and switches) or limiting it to Eligible Telecommunications Carriers—which could also limit E-Rate support to internet access only.²¹⁵

- 3) **Eliminating Support for internal connections and Wi-Fi.** The Commission separately questions support for “the installation and maintenance of internal connections”²¹⁶ (which is the primary way Wi-Fi is supported in the program).
- 4) **Restricting W-Fi Access in the classroom.** The Commission asks about “Bell to Bell” cellphone bans²¹⁷ which EHT links to the “reduction in exposure to wireless radiation” as better for children’s health.
- 5) **Eliminating Wi-Fi support because “Wi-Fi” isn’t explicitly mentioned in the statute.** The Commission seeks comment on “the extent to which the expansion of eligible services and equipment over time to include items beyond discounted telecommunications services is supported by the text, structure, and history of section 254 of the Communications Act.”²¹⁸

Given that the Commission has already eliminated support for Wi-Fi on school buses, Wi-Fi in the home, and the Commerce Department has thwarted Congressionally mandated investments in Wi-Fi for low-income apartment buildings, Benton cannot help but wonder why the Commission is exploring such a variety of means to disrupt Wi-Fi support in schools and libraries.

²¹⁵ NPRM ¶15.

²¹⁶ NPRM ¶16.

²¹⁷ NPRM ¶52; see Environmental Health Trust. "What Is a 'Bell-to-Bell' Cell Phone Ban, and Does It Work?" EHT, June 4, 2026. <https://ehtrust.org/what-is-a-bell-to-bell-cell-phone-ban-and-does-it-work/>.

²¹⁸ NPRM ¶14.

The Commission cannot and should not use this proceeding to in any way limit access to W-Fi, slow investment in Wi-Fi, or as a backdoor way to achieve Sec. Kennedy's long-held and unfounded goal of limiting or removing Wi-Fi access from classrooms.

XXXI. Conclusion

The E-Rate program remains an unparalleled American success story, serving as the essential infrastructure for our students' digital future. As the Commission looks toward the next phase of this vital program, Benton urges the FCC to reject any proposals that would sunset or fundamentally constrain the E-Rate. Such actions would not only be contrary to the Congressionally mandated mission of universal service but would also catastrophically undermine America's global competitiveness.

The Commission's path forward is clear: prioritize the core mandate of Section 254 by updating connectivity targets to meet the demands of an AI-driven economy and enhancing support for essential cybersecurity infrastructure.

The Commission cannot impose uniform screen-time limits, dictate instructional methodologies, or supersede the expertise of educators, parents, and local school boards; these actions are outside its statutory authority and counterproductive to the goal of connecting and protecting our children. The Commission should remain focused on its own expertise and goals of the E-Rate and ensure that all students, regardless of geography or income, have the scalable, high-speed broadband necessary to learn, innovate, and thrive.

Respectfully submitted,

Andrew Jay Schwartzman
Senior Counselor
Benton Institute for Broadband & Society
1041 Ridge Road, Unit 214
Wilmette, IL 60091
andyschwartzman@gmail.com
202-241-2408

October 13, 2026