

MEMORANDUM OF UNDERSTANDING
AMONG
ARKANSAS DEPARTMENT OF EDUCATION, ARKANSAS DEPARTMENT OF INFORMATION
SYSTEMS, AND [REDACTED]
CONCERNING E-RATE AND SCHOOL COMPUTER NETWORK

This Memorandum of Understanding (MOU) sets forth the terms and understanding among the Arkansas Department of Education (ADE), Arkansas Department of Information Systems (DIS), and [REDACTED] concerning the federal E-rate Program, the state's school computer network, and the prohibition of filing for duplicative service.

Background

In 2014, Dana Shaffer, at the time a Federal Communications Commission (FCC) Deputy Managing Director and currently the FCC Deputy Bureau Chief and Chief of Staff for the Wireless Telecommunications Bureau, determined that many Arkansas school districts were filing for E-rate funding on at least one Internet circuit in addition to the service provided by DIS, and she conveyed to DIS and ADE that these funding requests were duplicative and contrary to FCC policy.

Specifically, the FCC 2nd E-rate order states:

"...Administrator has denied discounts for duplicative services. Duplicative services are services that deliver the same functionality to the same population in the same location during the same period of time. We emphasize that requests for discounts for duplicative services will be rejected on the basis that such applications cannot demonstrate, as required by our rules, that that they are reasonable or cost effective. ...We find that the use of discounts to fund duplicative services contravenes the requirement that discounts be awarded to meet the "reasonable needs and resources" of applicants. We find that requests for discounts for duplicative services are unreasonable because they impact the fair distribution of discounts to schools and libraries..."

While it may be understandable that a second Internet connection may be useful for redundancy or failover purposes since so much of the information needed in the classroom today is only accessed via the Internet, the FCC and USAC have not changed their express position that funding requests for duplicative services will be rejected. As a result, while districts may have a second path to the Internet, they are prohibited from filing a duplicative request for E-rate funding.

Due to the nature of the issue, Ms. Shaffer coordinated two funding years, fiscal years 2016 and 2017, for the state to correct this duplicative E-rate funding issue and expected the State to prevent the school districts from filing for funding of duplicative service in the future. The new K12 network provides for an APSCN circuit at 200Kbps/user, which capability exceeds the

initial SETDA and FCC objectives of 100Kbps/user. By implementing the new K12 network within the two-year designated time frame, the State of Arkansas has appropriately addressed the issue of duplicative service identified by Ms. Shaffer.

Purpose

Given this background, 19 school districts have notified DIS that they intend to utilize a second Internet circuit and to file for E-rate reimbursement for the second Internet circuit (however, of this number, five school districts have their own Internet contracts that continue into this year from vendors that did not bid on the new network and which will not agree to release these school districts from those contracts). The remaining 14 school districts have requested that DIS assist them in connecting their additional Internet circuit to the new K12 school hub hardware provided by the State with the potential of employing State-provided content filtering.

Recognizing the FCC's express approach to rejecting requests for duplicative service reimbursement, neither DIS nor ADE will be complicit in enabling school districts to install a second Internet service when they have expressly stated that they will file for reimbursement of the duplicative Internet service.

DIS, ADE, and Superintendent [REDACTED], on behalf of [REDACTED], have previously entered into an E-Rate Letter of Agency in which the [REDACTED] has authorized ADE and DIS to engage on its behalf in the procurement process, in the submission of FCC Form 470, FCC Form 471, and other E-rate forms, and in the overall administration of these programs solely for the purpose of facilitating application for those discounts on E-rate eligible services, which shall include, but not be limited to, Telecommunication Services, Telecommunications, and Internet Access.

Accordingly, Superintendent [REDACTED], on behalf of [REDACTED]:

- 1) expressly states that, by purchasing additional bandwidth outside of the state network, no person or entity representing [REDACTED] shall file for E-rate reimbursement for the additional bandwidth as it constitutes an ineligible duplicative service for purposes of E-rate reimbursement; and
- 2) expressly acknowledges that filing for E-rate reimbursement for the additional bandwidth outside of the state network may jeopardize the State of Arkansas's participation in the E-rate Program through funding delays, denials, or commitment adjustments; and
- 3) expressly acknowledges that filing for E-rate reimbursement for the additional bandwidth outside of the state network may subject [REDACTED] to repayment of improper reimbursements for duplicative services pursuant to federal regulation.

Duration

This MOU is at-will and may be modified by mutual consent of authorized officials from ADE, DIS, and [REDACTED]. This MOU shall become effective upon execution by the

authorized officials from ADE, DIS, and [redacted] and will remain in effect until modified by the parties or terminated by any of the parties upon sixty (60) days notice to the other parties.

Arkansas Department of Education

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