

§ 54.517

equipment for a period of 10 years after purchase.

(2) *Service providers.* Service providers shall retain documents related to the delivery of supported services for at least 10 years after the latter of the last day of the applicable funding year or the service delivery deadline for the funding request. Any other document that demonstrates compliance with the statutory or regulatory requirements for the schools and libraries mechanism shall be retained as well.

(b) *Production of records.* Schools, libraries, consortia, and service providers shall produce such records at the request of any representative (including any auditor) appointed by a state education department, the Administrator, the FCC, or any local, state or federal agency with jurisdiction over the entity.

(c) *Audits.* Schools, libraries, consortia, and service providers shall be subject to audits and other investigations to evaluate their compliance with the statutory and regulatory requirements for the schools and libraries universal service support mechanism, including those requirements pertaining to what services and products are purchased, what services and products are delivered, and how services and products are being used. Schools, libraries, and consortia receiving discounted services must provide consent before a service provider releases confidential information to the auditor, reviewer, or other representative.

(d) *Inspections.* Schools, libraries, consortia and service providers shall permit any representative (including any auditor) appointed by a state education department, the Administrator, the Commission or any local, state or federal agency with jurisdiction over the entity to enter their premises to conduct E-rate compliance inspections.

2. At 79 FR 49203, Aug. 19, 2014, § 54.516 was revised. However, paragraphs (a) through (c) contain information collection and record-keeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

§ 54.517 [Reserved]

§ 54.518 Support for wide area networks.

To the extent that schools, libraries or consortia that include an eligible school or library build or purchase a wide area network to provide telecommunications services, the cost of such wide area networks shall not be eligible for universal service discounts provided under this subpart.

[75 FR 75415, Dec. 3, 2010]

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§ 54.519 State telecommunications networks.

(a) *Telecommunications services.* State telecommunications networks may secure discounts under the universal service support mechanisms on supported telecommunications services (as described in § 54.502(a)) on behalf of eligible schools and libraries (as described in § 54.501) or consortia that include an eligible school or library. Such state telecommunications networks shall pass on such discounts to eligible schools and libraries and shall:

(1) Maintain records listing each eligible school and library and showing the basis for each eligibility determination;

(2) Maintain records demonstrating the discount amount to which each eligible school and library is entitled and the basis for such determination;

(3) Take reasonable steps to ensure that each eligible school or library receives a proportionate share of the shared services;

(4) Request that service providers apply the appropriate discount amounts on the portion of the supported services used by each school or library;

(5) Direct eligible schools and libraries to pay the discounted price; and

(6) Comply with the competitive bid requirements set forth in § 54.503.

(b) *Internet access and installation and maintenance of internal connections.* State telecommunications networks either may secure discounts on Internet access and installation and maintenance of internal connections in the manner described in paragraph (a) of this section with regard to telecommunications, or shall be eligible, consistent with § 54.502(a), to receive universal service support for providing such services to eligible schools, libraries, and consortia including those entities.

[63 FR 2131, Jan. 13, 1998; 63 FR 33586, June 19, 1998, as amended at 75 FR 75415, Dec. 3, 2010]

§ 54.520 Children's Internet Protection Act certifications required from recipients of discounts under the federal universal service support mechanism for schools and libraries.

(a) *Definitions.*

(1) *School*. For the purposes of the certification requirements of this rule, school means school, school board, school district, local education agency or other authority responsible for administration of a school.

(2) *Library*. For the purposes of the certification requirements of this rule, library means library, library board or authority responsible for administration of a library.

(3) *Billed entity*. Billed entity is defined in § 54.500. In the case of a consortium, the billed entity is the lead member of the consortium.

(4) *Statutory definitions*.

(i) The term “minor” means any individual who has not attained the age of 17 years.

(ii) The term “obscene” has the meaning given such term in 18 U.S.C. 1460.

(iii) The term “child pornography” has the meaning given such term in 18 U.S.C. 2256.

(iv) The term “harmful to minors” means any picture, image, graphic image file, or other visual depiction that—

(A) Taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion;

(B) Depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and

(C) Taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors.

(v) The terms “sexual act” and “sexual contact” have the meanings given such terms in 18 U.S.C. 2246.

(vi) The term “technology protection measure” means a specific technology that blocks or filters Internet access to the material covered by a certification under paragraph (c) of this section.

(b) *Who is required to make certifications?* (1) A school or library that receives discounts for Internet access and internal connections services under the federal universal service support mechanism for schools and libraries, must make such certifications as described in paragraph (c) of this section. The certifications required and described in

paragraph (c) of this section must be made in each funding year.

(2) Schools and libraries that only receive discounts for telecommunications services under the federal universal service support mechanism for schools and libraries are not subject to the requirements 47 U.S.C. 254(h) and (l), but must indicate, pursuant to the certification requirements in paragraph (c) of this section, that they only receive discounts for telecommunications services.

(c) *Certifications required under 47 U.S.C. 254(h) and (l)*—(1) *Schools*. The billed entity for a school that receives discounts for Internet access or internal connections must certify on FCC Form 486 that an Internet safety policy is being enforced. If the school is an eligible member of a consortium but is not the billed entity for the consortium, the school must certify instead on FCC Form 479 (“Certification to Consortium Leader of Compliance with the Children’s Internet Protection Act”) that an Internet safety policy is being enforced.

(i) The Internet safety policy adopted and enforced pursuant to 47 U.S.C. 254(h) must include a technology protection measure that protects against Internet access by both adults and minors to visual depictions that are obscene, child pornography, or, with respect to use of the computers by minors, harmful to minors. The school must enforce the operation of the technology protection measure during use of its computers with Internet access, although an administrator, supervisor, or other person authorized by the certifying authority under paragraph (a)(1) of this section may disable the technology protection measure concerned, during use by an adult, to enable access for bona fide research or other lawful purpose. This Internet safety policy must also include monitoring the online activities of minors. Beginning July 1, 2012, schools’ Internet safety policies must provide for educating minors about appropriate online behavior, including interacting with other individuals on social networking Web sites and in chat rooms and cyberbullying awareness and response.

(ii) The Internet safety policy adopted and enforced pursuant to 47 U.S.C.

254(l) must address all of the following issues:

(A) Access by minors to inappropriate matter on the Internet and World Wide Web;

(B) The safety and security of minors when using electronic mail, chat rooms, and other forms of direct electronic communications;

(C) Unauthorized access, including so-called “hacking,” and other unlawful activities by minors online;

(D) Unauthorized disclosure, use, and dissemination of personal information regarding minors; and

(E) Measures designed to restrict minors’ access to materials harmful to minors.

(iii) A school must satisfy its obligations to make certifications by making one of the following certifications required by paragraph (c)(1) of this section on FCC Form 486:

(A) The recipient(s) of service represented in the Funding Request Number(s) on this Form 486 has (have) complied with the requirements of the Children’s Internet Protection Act, as codified at 47 U.S.C. 254(h) and (l).

(B) Pursuant to the Children’s Internet Protection Act, as codified at 47 U.S.C. 254(h) and (l), the recipient(s) of service represented in the Funding Request Number(s) on this Form 486, for whom this is the first funding year in the federal universal service support mechanism for schools and libraries, is (are) undertaking such actions, including any necessary procurement procedures, to comply with the requirements of CIPA for the next funding year, but has (have) not completed all requirements of CIPA for this funding year.

(C) The Children’s Internet Protection Act, as codified at 47 U.S.C. 254(h) and (l), does not apply because the recipient(s) of service represented in the Funding Request Number(s) on this Form 486 is (are) receiving discount services only for telecommunications services.

(2) *Libraries.* The billed entity for a library that receives discounts for Internet access and internal connections must certify, on FCC Form 486, that an Internet safety policy is being enforced. If the library is an eligible member of a consortium but is not the billed entity for the consortium, the li-

brary must instead certify on FCC Form 479 (“Certification to Consortium Leader of Compliance with the Children’s Internet Protection Act”) that an Internet safety policy is being enforced.

(i) The Internet safety policy adopted and enforced pursuant to 47 U.S.C. 254(h) must include a technology protection measure that protects against Internet access by both adults and minors to visual depictions that are obscene, child pornography, or, with respect to use of the computers by minors, harmful to minors. The library must enforce the operation of the technology protection measure during use of its computers with Internet access, although an administrator, supervisor, or other person authorized by the certifying authority under paragraph (a)(2) of this section may disable the technology protection measure concerned, during use by an adult, to enable access for bona fide research or other lawful purpose.

(ii) The Internet safety policy adopted and enforced pursuant to 47 U.S.C. 254(l) must address all of the following issues:

(A) Access by minors to inappropriate matter on the Internet and World Wide Web;

(B) The safety and security of minors when using electronic mail, chat rooms, and other forms of direct electronic communications;

(C) Unauthorized access, including so-called “hacking,” and other unlawful activities by minors online;

(D) Unauthorized disclosure, use, and dissemination of personal information regarding minors; and

(E) Measures designed to restrict minors’ access to materials harmful to minors.

(iii) A library must satisfy its obligations to make certifications by making one of the following certifications required by paragraph (c)(2) of this section on FCC Form 486:

(A) The recipient(s) of service represented in the Funding Request Number(s) on this Form 486 has (have) complied with the requirements of the Children’s Internet Protection Act, as codified at 47 U.S.C. 254(h) and (l).

(B) Pursuant to the Children’s Internet Protection Act, as codified at 47

U.S.C. 254(h) and (l), the recipient(s) of service represented in the Funding Request Number(s) on this Form 486, for whom this is the first funding year in the federal universal service support mechanism for schools and libraries, is (are) undertaking such actions, including any necessary procurement procedures, to comply with the requirements of CIPA for the next funding year, but has (have) not completed all requirements of CIPA for this funding year.

(C) The Children's Internet Protection Act, as codified at 47 U.S.C. 254(h) and (l), does not apply because the recipient(s) of service represented in the Funding Request Number(s) on this Form 486 is (are) receiving discount services only for telecommunications services.

(3) *Certifications required from consortia members and billed entities for consortia.* (i) The billed entity of a consortium, as defined in paragraph (a)(3) of this section, other than one requesting only discounts on telecommunications services for consortium members, must collect from the authority for each of its school and library members, one of the following signed certifications on FCC Form 479 ("Certification to Consortium Leader of Compliance with the Children's Internet Protection Act"), which must be submitted to the billed entity consistent with paragraph (c)(1) or paragraph (c)(2) of this section:

(A) The recipient(s) of service under my administrative authority and represented in the Funding Request Number(s) for which you have requested or received Funding Commitments has (have) complied with the requirements of the Children's Internet Protection Act, as codified at 47 U.S.C. 254(h) and (l).

(B) Pursuant to the Children's Internet Protection Act, as codified at 47 U.S.C. 254(h) and (l), the recipient(s) of service under my administrative authority and represented in the Funding Request Number(s) for which you have requested or received Funding Commitments, and for whom this is the first funding year in the federal universal service support mechanism for schools and libraries, is (are) undertaking such actions, including any necessary procurement procedures, to comply with the requirements of CIPA for the next

funding year, but has (have) not completed all requirements of CIPA for this funding year.

(C) The Children's Internet Protection Act, as codified at 47 U.S.C. 254(h) and (l), does not apply because the recipient(s) of service under my administrative authority and represented in the Funding Request Number(s) for which you have requested or received Funding Commitments is (are) receiving discount services only for telecommunications services; and

(ii) The billed entity for a consortium, as defined in paragraph (a)(3) of this section, must make one of the following two certifications on FCC Form 486: "I certify as the Billed Entity for the consortium that I have collected duly completed and signed Forms 479 from all eligible members of the consortium."; or I certify "as the Billed Entity for the consortium that the only services that I have been approved for discounts under the universal service support on behalf of eligible members of the consortium are telecommunications services, and therefore the requirements of the Children's Internet Protection Act, as codified at 47 U.S.C. 254(h) and (l), do not apply."; and

(iii) The billed entity for a consortium, as defined in paragraph (a)(3) of this section, who filed an FCC Form 471 as a "consortium application" and who is also a recipient of services as a member of that consortium must select one of the certifications under paragraph (c)(3)(i) of this section on FCC Form 486.

(4) *Local determination of content.* A determination regarding matter 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 establish criteria for making such determination; review the determination made by the certifying school, school board, school district, local educational agency, library, or other authority; or consider the criteria employed by the certifying school, school board, school district, local educational agency, library, or other authority in the administration of the

schools and libraries universal service support mechanism.

(5) *Availability for review.* Each Internet safety policy adopted pursuant to 47 U.S.C. 254(l) shall be made available to the Commission, upon request from the Commission, by the school, school board, school district, local educational agency, library, or other authority responsible for adopting such Internet safety policy for purposes of the review of such Internet safety policy by the Commission.

(d) *Failure to provide certifications—(1) Schools and libraries.* A school or library that knowingly fails to submit certifications as required by this section, shall not be eligible for discount services under the federal universal service support mechanism for schools and libraries until such certifications are submitted.

(2) *Consortia.* A billed entity's knowing failure to collect the required certifications from its eligible school and library members or knowing failure to certify that it collected the required certifications shall render the entire consortium ineligible for discounts under the federal universal service support mechanism for school and libraries.

(3) *Reestablishing eligibility.* At any time, a school or library deemed ineligible for discount services under the federal universal service support mechanism for schools and libraries because of failure to submit certifications required by this section, may reestablish eligibility for discounts by providing the required certifications to the Administrator and the Commission.

(e) *Failure to comply with the certifications—(1) Schools and libraries.* A school or library that knowingly fails to ensure the use of computers in accordance with the certifications required by this section, must reimburse any funds and discounts received under the federal universal service support mechanism for schools and libraries for the period in which there was non-compliance.

(2) *Consortia.* In the case of consortium applications, the eligibility for discounts of consortium members who ensure the use of computers in accordance with the certification requirements of this section shall not be af-

fectured by the failure of other school or library consortium members to ensure the use of computers in accordance with such requirements.

(3) *Reestablishing compliance.* At any time, a school or library deemed ineligible for discounts under the federal universal service support mechanism for schools and libraries for failure to ensure the use of computers in accordance with the certification requirements of this section and that has been directed to reimburse the program for discounts received during the period of noncompliance, may reestablish compliance by ensuring the use of its computers in accordance with the certification requirements under this section. Upon submittal to the Commission of a certification or other appropriate evidence of such remedy, the school or library shall be eligible for discounts under the universal service mechanism.

(f) *Waivers based on state or local procurement rules and regulations and competitive bidding requirements.* Waivers shall be granted to schools and libraries when the authority responsible for making the certifications required by this section, cannot make the required certifications because its state or local procurement rules or regulations or competitive bidding requirements, prevent the making of the certification otherwise required. The waiver shall be granted upon the provision, by the authority responsible for making the certifications on behalf of schools or libraries, that the schools or libraries will be brought into compliance with the requirements of this section, for schools, before the start of the third program year after April 20, 2001 in which the school is applying for funds under this title, and, for libraries, before the start of Funding Year 2005 or the third program year after April 20, 2001, whichever is later.

(g) *Funding year certification deadlines.* For Funding Year 2003 and for subsequent funding years, billed entities shall provide one of the certifications required under paragraph (c)(1), (c)(2) or (c)(3) of this section on an FCC Form 486 in accordance with the existing program guidelines established by the Administrator.

Federal Communications Commission

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(h) *Public notice; hearing or meeting.* A school or library shall provide reasonable public notice and hold at least one public hearing or meeting to address the proposed Internet safety policy.

[66 FR 19396, Apr. 16, 2001; 66 FR 22133, May 3, 2001, as amended at 67 FR 50603, Aug. 5, 2002; 68 FR 47255, Aug. 8, 2003; 76 FR 56303, Sept. 13, 2011]

§ 54.522 [Reserved]

§ 54.523 Payment for the non-discount portion of supported services.

An eligible school, library, or consortium must pay the non-discount portion of services or products purchased with universal service discounts. An eligible school, library, or consortium may not receive rebates for services or products purchased with universal service discounts. For the purpose of this rule, the provision, by the provider of a supported service, of free services or products unrelated to the supported service or product constitutes a rebate of the non-discount portion of the supported services.

[69 FR 6192, Feb. 10, 2004]

Subpart G—Universal Service Support for Health Care Providers

DEFINED TERMS AND ELIGIBILITY

§ 54.600 Terms and definitions.

As used in this subpart, the following terms shall be defined as follows:

(a) *Health care provider.* A “health care provider” is any:

(1) Post-secondary educational institution offering health care instruction, including a teaching hospital or medical school;

(2) Community health center or health center providing health care to migrants;

(3) Local health department or agency;

(4) Community mental health center;

(5) Not-for-profit hospital;

(6) Rural health clinic; or

(7) Consortium of health care providers consisting of one or more entities described in paragraphs (a)(1) through (a)(6) of this section.

(b) *Rural area.* (1) A “rural area” is an area that is entirely outside of a Core Based Statistical Area; is within a Core

Based Statistical Area that does not have any Urban Area with a population of 25,000 or greater; or is in a Core Based Statistical Area that contains an Urban Area with a population of 25,000 or greater, but is within a specific census tract that itself does not contain any part of a Place or Urban Area with a population of greater than 25,000. For purposes of this rule, “Core Based Statistical Area,” “Urban Area,” and “Place” are as identified by the Census Bureau.

(2) Notwithstanding the definition of “rural area,” any health care provider that is located in a “rural area” under the definition used by the Commission prior to July 1, 2005, and received a funding commitment from the rural health care program prior to July 1, 2005, is eligible for support under this subpart.

(c) *Rural health care provider.* A “rural health care provider” is an eligible health care provider site located in a rural area.

[78 FR 13982, Mar. 1, 2013]

§ 54.601 Health care provider eligibility.

(a) *Eligible health care providers.* (1) Only an entity that is either a public or non-profit health care provider, as defined in this subpart, shall be eligible to receive support under this subpart.

(2) Each separate site or location of a health care provider shall be considered an individual health care provider for purposes of calculating and limiting support under this subpart.

(b) *Determination of health care provider eligibility for the Healthcare Connect Fund.* Health care providers in the Healthcare Connect Fund may certify to the eligibility of particular sites at any time prior to, or concurrently with, filing a request for services to initiate competitive bidding for the site. Applicants who utilize a competitive bidding exemption must provide eligibility information for the site to the Administrator prior to, or concurrently with, filing a request for funding for the site. Health care providers must also notify the Administrator within 30