

Update on E-Rate Programs and Fifth Circuit Ruling

Established in 1996, [E-Rate](#) provides discounts to help schools and libraries in obtaining affordable telecommunications and internet access. The Universal Service Administrative Company (USAC) administers E-Rate under the direction of the FCC. Specifically, USAC is responsible for processing the applications for support, confirming eligibility, and reimbursing service providers and eligible schools and libraries for the discounted services. USAC also establishes quarterly contribution factors for E-Rate and the other Universal Service Fund programs and collects those contributions from telecommunications providers.

Yesterday, the Fifth Circuit Court of Appeals reversed a prior decision and ruled that the funding mechanism for E-Rate is unconstitutional because it delegates congressional taxing authority to FCC and USAC. The decision is an outlier because two other federal circuit courts have upheld the legality of this funding mechanism.

FCC Chair Rosenworcel said in a statement yesterday that the decision “is misguided and wrong” and that FCC will “pursue all avenues for a review.” Given the split between circuits, it’s possible or likely that the Supreme Court will agree to hear the case in a future term.

At a meeting this morning with FCC staff, CCSSO learned that FCC will seek to limit disruptions to the field. There will be no immediate effect of the ruling while the Fifth Circuit prepares to issue its mandate to implement the decision in September. FCC will likely seek a stay of the decision to prevent significant disruptions to schools and libraries while FCC appeals the decision to the Supreme Court.

The continuation of federal support for education connectivity will be a significant focus of CCSSO’s advocacy. Please contact Peter.Zamora@CCSSO.org if you have questions or concerns.