

# ALA American Library Association

Public Policy and Advocacy Office 1615 New Hampshire Ave. NW Washington, DC 20009

July 12, 2021

Marlene H. Dortch, Secretary  
Federal Communications Commission  
45 L St. NE  
Washington, DC 20554

Re: Emergency Connectivity Fund for Educational Connections and Devices to Address the Homework Gap During the Pandemic, WC Docket No. 21-93

Dear Secretary Dortch:

The American Library Association<sup>1</sup> respectfully urges the Commission to extend the implementation of certain regulations in the Emergency Connectivity Fund (ECF) related to the implementation of the ten-year data retention requirements. Specifically, we request that the implementation of CFR § 54.1715, on record retention, start 90 days after the close of the ECF application process on August 16, 2021, or 90 days after a library receives a ECF funding commitment letter, whichever date is later.

We request this extension to give libraries time to develop the necessary administrative and technological processes needed to comply with the ten-year record retention requirement as specified in the above regulatory reference. Libraries that are considering applying for ECF funding are currently working to implement such processes but because of necessary adaptations to the systems which libraries use to circulate materials, including ECF eligible devices, many are concerned that they will not be able to be in compliance by the close of the application window. This issue has been raised as a reason to decide not to participate in the ECF program. This letter outlines some of the barriers libraries are working through.

On June 28, 2021, ALA filed a letter<sup>2</sup> in this docket stating our concerns about patron privacy and the ten-year data retention requirement. On the privacy issue, we appreciate the ECF program's reference to state privacy laws for libraries and acknowledgement that the

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<sup>1</sup> For more than 140 years, ALA has been the trusted voice for academic, public, school, and special libraries, advocating for the profession and the library's role in enhancing learning and ensuring access to information for all. ALA represents the nation's 117,000 libraries, which includes 16,557 public libraries.

<sup>2</sup> ALA letter filed on June 28, 2021. At:

[https://ecfsapi.fcc.gov/file/10629964001939/ALA\\_letter\\_patron\\_data\\_retention\\_06282021.pdf](https://ecfsapi.fcc.gov/file/10629964001939/ALA_letter_patron_data_retention_06282021.pdf).

Commission and USAC will follow these laws regarding their need for any library patron's personal information. In our initial comments in April, we referenced the fact that 48 states and the District of Columbia have such laws and two states have opinions for their attorneys general protecting library users' privacy.<sup>3</sup> While the assurance that the Commission and USAC will follow these laws mitigates some of the issues, because of the ten-year record retention, the issues of patron privacy and data retention are inextricably linked for libraries. Therefore, because libraries do not retain a patron's personally identifiable information once an item is checked back into the library's system, libraries will need to establish new processes to retain required patron data while still adhering to patron privacy laws.

On the ten-year data retention issue, the June 28 letter outlined how libraries use their integrated library systems (ILS) to check-out and check-in items circulated by the library. These include traditional items like books and more recent additions to the library's collection, like tablets and wi-fi hotspots. We encourage the Commission to review the information in the letter on how libraries will need to change their ILS and circulation procedures to comply with the ECF data retention requirement.

As libraries review their ILS, we have received additional feedback indicating that necessary changes to be in compliance with the ECF rules are not straightforward. This is especially true for smaller libraries that do not have someone on staff who can manage the ILS changes directly but will have to work with their ILS vendor to make necessary modifications. Libraries have been assessing their ILS to determine what it is and is not capable of regarding data retention of patron personally identifiable information and investigating their respective state privacy laws.

To give the Commission an idea of the administrative and technical changes libraries will need to make to their ILS, the following example is from the Milwaukee County (WI) Federated Library System.<sup>4</sup>

Staff will need to associate the ECF equipment (e.g., tablet) with a specific bibliographic record to track the circulation transactions. The specifics about the equipment can be entered into the bibliographic or item record in our ILS. One key concern we have is storing a patron's personally identifiable information (PII) to meet the ECF data retention requirements. Currently, we save all circulation transactions, but they are intentionally anonymized to ensure patron privacy. Now for the ECF program we will need to retain the patron's name. This requires saving off the data to a separate table and we will also have to identify which bibliographic records to include or have some specific coding associated with the ECF equipment. So, we'll need to identify this equipment with coding in the ILS and then develop a script to save off the required data each night and retain it accordingly.

*Having extra time to do the work needed to implement and test this process and train staff will be very helpful.* [Emphasis added.]

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<sup>3</sup> ALA comments filed April 5, 2021. At [https://ecfsapi.fcc.gov/file/10405314108601/ALA\\_ECF\\_Comments\\_04052021.pdf](https://ecfsapi.fcc.gov/file/10405314108601/ALA_ECF_Comments_04052021.pdf).

<sup>4</sup> The Milwaukee County Federated Library System (<https://www.mcfls.org>) includes the City of Milwaukee Public Library and the libraries in fourteen other suburban communities. These fifteen libraries and their branches serve a total population of 941,346.

Other libraries are creating new checkout and acceptable use policies because the privacy laws require a patron specifically waive their right to privacy and explicitly allow the retention of their personal data. In other instances, libraries are developing processes to store the required patron data separately on paper which they will retain in a secure location, separate from the circulation record in the ILS. In most cases, these policies will need to be approved by the library's Board before they can be implemented. Such approval requires additional time (e.g., some Boards meet on a quarterly schedule), similar to when a library works toward compliance with the Children's Internet Protection Act.

The June 28 letter requests the Commission "allow for a reasonable delay in enforcing the data retention requirements." After hearing from our members, we suggest a 90-day extension of the implementation of these specific requirements. As we state in the letter, "This modest delay will help ensure libraries are well prepared to develop a reasonable system for documenting the required information."

Thank you for your consideration of this request.

Sincerely,

/s/ Marijke Visser  
Senior Policy Advocate, ALA

/s/ Alan Inouye  
Senior Director, Public Policy and Government Relations, ALA

cc:  
FCC Interim Chairwoman Jessica Rosenworcel  
FCC Commissioner Brendan Carr  
FCC Commissioner Geoffrey Starks  
FCC Commissioner Nathan Simington  
Sue McNeil, Associate Bureau Chief, Wireline Competition Bureau