



## Support the E-Rate Program

**Message:** *The E-Rate is a vital program that must be preserved as Congress overhauls current telecommunications law. Since 1998, E-Rate has been the driving force behind ensuring that nearly all students and teachers – regardless of their socioeconomic circumstances – gain access to online resources. For the E-Rate to continue, it is critical that: 1) E-Rate remain an application-based program and part of universal service; 2) E-Rate funds flow without interruption; and 3) E-Rate not be subject to unreasonable new laws or regulations.*

**Background:** The E-Rate is a part of universal service, a support mechanism that was created in 1934 to ensure that rural consumers had affordable phone service. The E-Rate program, authorized under the Telecommunications Act of 1996, represents an extension of universal service. It provides public and private schools and libraries with discounts of 20%-90% for telecommunications services, Internet access and internal connections. Since its inception in 1998, it has played a major role in increasing public school classroom Internet connections from 14% in 1998 to 93% in 2003. The E-Rate has also helped low-income, minority and rural students gain near equal access in their classrooms to their peers around the country. Demand for the program remains strong as discount requests frequently exceed E-Rate's \$2.25 billion annual cap.

**Anti Deficiency Act Legislation:** Between August and December of 2004, the Universal Service Administrative Company (USAC) was forced to temporarily shut-down the program because it believed that it was about to run afoul of the federal Anti Deficiency Act (ADA). Under the ADA, federal agencies must have sufficient cash on hand to cover all program obligations. USAC collects E-Rate funds quarterly, and so not all E-Rate dollars are available when USAC sends out annual funding commitment letters to applicants. Thus, while the E-Rate account is never in the red, USAC and the FCC determined that such letters constituted obligations under the ADA. As a result, USAC stopped sending the letters, causing some districts turned off their service and many others to endure major funding delays.

In the past two Congressional sessions, Congress has passed and the President has signed legislation to temporarily exempt E-Rate and all of universal service from the ADA. The last ADA exemption expires on December 31, 2006 and, without the enactment of an additional temporary exemption or a permanent exemption, the E-Rate could face another shut-down.

Senator Olympia Snowe (R-ME) has introduced legislation, **S. 241**, that would make permanent the ADA exemption for E-Rate and all of universal service. Senate Commerce Committee Chair Stevens (R-AK) and Ranking Member Inouye (D-HI) have signed on as original cosponsors and 44 other Senators have already agreed to sponsor it. Representatives Barbara Cubin (R-WY) and Charles Gonzalez (D-TX) have introduced a companion bill in the House (**HR 2533**) and more than 100 other Representatives have cosponsored it. ISTE, CoSN and SIIA support both bills.

**Telecommunications Act Rewrite:** The E-Rate also faces continuing challenges to its very existence as Congress begins to rewrite the Telecommunications Act of 1996, which legally established the E-Rate. Media and Congressional attention to instances of waste, fraud, abuse, have overshadowed the program's accomplishments and efforts by the FCC and USAC to remedy these problems. For example, the FCC has already implemented a major rule change that bars applicants from receiving internal connections funding more than twice every five years.

Despite new FCC rules and USAC procedures, some in Congress believe that the E-Rate should be eliminated and may use the rewrite of telecommunications laws as a vehicle to end or cripple it. House Commerce Committee Chairman Joe Barton (R-TX) is drafting E-Rate Reform legislation that may impose onerous new burdens on E-Rate applicants. Additionally, Senator Jim DeMint (R-SC) has introduced legislation (S. 2113) that would terminate E-Rate after three years.

Senator Conrad Burns' (R-MT) has introduced legislation (S. 2256) that would establish a permanent exemption from the ADA for E-Rate, mandate that the FCC sanction applicants and providers who knowingly and repeatedly violate significant program rules, and require that the FCC establish performance measures for the program. ISTE and CoSN support instituting a system of graduated sanctions for those applicants and vendors who knowingly and repeatedly violate important program rules. They also support new E-Rate performance measures that measure the program's success based on the availability of adequate connection speed and bandwidth to student and teacher desktop computing devices or the wireless hubs that serve them.

Finally, some carriers have proposed to remove E-Rate from universal service funding altogether and pay for it through federal taxes. This would subject the E-Rate's funds to the appropriations process. ISTE and CoSN believe that E-Rate should remain a part of universal service.

**Formula Grant Proposal:** Last year, the FCC launched a major public rulemaking on universal service and the E-Rate program. In that rulemaking, the FCC proposed changing the program from an application based program to a formula grant program and allowing E-Rate funds to be used for non-telecommunications services. ISTE and CoSN oppose this proposal because it would not only imperil the E-Rate's stable funding stream but also could severely undermine the program's mission to serve low-income and rural populations, the ability of local entities to make decisions on services, and the Commission's own efforts to deter waste, fraud and abuse.

## Recommendations to Congress

1. *Reauthorize the E-Rate and maintain its inclusion in the universal service fund.*
2. *Permanently exempt the E-Rate program from the Anti-Deficiency Act.*
3. *Oppose all efforts to transform the E-Rate into a formula grant program*

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