Compliance With the Emergency Connectivity Fund:
Library's Acceptable Use Policy and Patron Certification of Need
(June 25, 2021)

Robert Bocher, Senior Fellow
(robert.bocher@gmail.com)

American Library Association

Millions of patrons and students depend on public libraries and schools for internet access. But when libraries and schools closed their buildings because of COVID-19 pandemic, many patrons and students lost their internet access because they lacked access at home. From the school perspective this lack of home connectivity is often called the "homework gap"; and from the library perspective it is the "connectivity gap." While most libraries and schools are now open, millions of patrons and students still lack internet access at home. The primary purpose of the Emergency Connectivity Fund (ECF) is to help provide such access and thus bridge these gaps.

On May 11, 2021, the Federal Communications Commission (FCC) released an Order containing the regulations on how to implement the ECF program. As part of the regulatory process the FCC had to develop some method to ensure that the program's funds went to support those students and patrons who lacked internet access at home. For schools, the FCC said each school had to document and certify students without access. But for libraries it placed this certification responsibility not on the library, but on the patron. While placing this responsibility on the patron removed the more intrusive need of library staff asking patrons about their internet access, the FCC's regulations do state that the library has two requirements related to patron certification:

1) Need to modify the library's internet Acceptable Use Policy (AUP)
2) Need to require patrons to certify they lack internet access

1) Modifying the library's internet Acceptable Use Policy (AUP)

The FCC's ECF Order (¶ 82) states that before providing a patron with ECF supported equipment (e.g., tablet) or services (e.g., internet access), the library must give the patron a copy of the library's internet Acceptable Use Policy (AUP). This policy must have a section explaining that the equipment or service is intended only for patrons who do not have access to equipment or services sufficient to meet the patron's internet connectivity needs. Thus, staff must revise the library's AUP to add this statement. The FCC does not provide any sample language on this requirement but the example below is based on a straight-forward reading of the Order:

> *Example of ECF AUP language:*
> The library has received funding from the federal Emergency Connectivity Fund (ECF) to purchase [insert what was purchased. E.g., hotspots, tablets, internet access, etc.]. Any ECF supported equipment and services can only be provided to patrons who declare they do not have access to the equipment or services sufficient to access the internet.

2) Requiring patrons to certify they lack internet access

In addition to the AUP requirement, the FCC's Order also states that patrons must sign a statement that they lack access to equipment or services sufficient to meet their internet needs and thus are eligible for

the library's ECF supported equipment and/or service. Again, like the AUP requirement, the FCC does not provide any sample language on this requirement, but the example below is based on a straight-forward reading of the Order:

Example of patron ECF certification language:

The equipment and services funded by the federal Emergency Connectivity Fund (ECF) can only be provided to patrons who declare they do not have access to the equipment or services sufficient to access the internet. By signing this statement I declare I do not have access to such equipment or services.

_____   _____

Patron signature   Date

The FCC's Order does not provide any guidance on the format of the patron certification statement thus libraries can use a traditional paper form or an electronic form. If certification is via a check box on an E-form, staff may want to edit the statement to say something like: "By checking this box I declare that I do not have access to such equipment or services." Whatever the format, the library needs to retain the patron signed or checked certification statement for ten years.

On subsequent instances when a patron checks out ECF funded equipment or requests an ECF service (e.g., internet access), staff will need to verify that the individual has a certification statement on file.