5-2023

ACLP - Comments to NTIA re Digital Equity Act Grants Programs - May 2023

New York Law School

The Honorable Alan Davidson
Assistant Secretary for Communications & Information
National Telecommunications & Information Administration
U.S. Department of Commerce
1401 Constitution Avenue NW, Room 4878
Washington, D.C. 20230

Re: **Docket No. 230224-0051 – Digital Equity Act of 2021; Request for Comments**

Dear Assistant Secretary Davidson,

The Advanced Communications Law & Policy Institute (ACLP) at New York Law School respectfully submits the following comments in the above-referenced docket. Should you have any questions, please do not hesitate to contact us.

Respectfully submitted,

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1.   Introduction

With its forthcoming implementation of digital equity (DE) grant programs established by the Infrastructure Investment & Jobs Act (IIJA), NTIA has an opportunity to finally address, in a comprehensive and impactful manner, a set of issues that has long been overlooked by policymakers.

For decades, policymakers at every level of government have myopically focused on broadband supply-side issues, which are of course important, while giving DE issues short shrift.[1] As a result, demand-side issues – *i.e.,* broadband adoption, digital literacy, and the overarching issue of digital equity – have received limited attention and funding from government. Now, with more than two billion dollars available exclusively for DE-related efforts, NTIA has a meaningful opportunity to remedy decades of collective neglect by building a solid foundation for dispensing much-needed resources for DE-focused education, outreach, and training.

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[1] The ACLP has long made this point in comments to federal and state entities and in many of its reports on broadband issues. For a recent example, *see State and Local Policymakers' Broadband Planning Tool Kit*, at p. 113-133, ACLP at New York Law School (Oct. 2022), https://digitalcommons.nyls.edu/cgi/viewcontent.cgi?article=1008&context=reports_resources (*"ACLP Tool Kit"*).

These comments are respectfully offered to help inform NTIA's effort. There is little evidence that previous attempts by NTIA to address these issues – notably the disbursement of $250M+ in grants for "sustainable adoption" as part of the BTOP program in 2010 – had any measurable impacts on broadband adoption or the development of digital literacy skills across significant swaths of the population.[2] Fortunately, the Digital Equity Act appears to incorporate lessons learned from BTOP and reflects the substantial expertise of DE practitioners, all of which provides NTIA with a clearer direction for leveraging available funds.[3] With this RFC, NTIA has signaled that it takes the Digital Equity Act's commands – and the pleas for a greater focus on and resources for DE activities by advocates like the ACLP – seriously.[4] This is heartening.

As an overview, these comments:

- Underscore the importance of NTIA being intentional in its design of the DE grant programs to protect against waste, fraud, and abuse by, among other things, encouraging ongoing collaboration with expert entities.

- Encourage the use of a baseline framework in the development of DE plans and programs by states and NTIA itself to assure a modicum of consistency and predictability in the final products.

- Highlight the importance of states and NTIA incorporating best practices and lessons learned from previous DE efforts into their plans and programs.

- Urge NTIA and state grant administrators to address and plan for the long-term financial sustainability of effective DE programs.

Each of these points is discussed in turn below.

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[2] An NTIA-funded evaluation of BTOP programs, including those focused on sustainable broadband adoption, offered only a case study-driven analysis. *See Final Report: Social and Economic Impacts of the Broadband Technology Opportunities Program,* ASR Analytics (Sept. 2014), https://www.ntia.doc.gov/files/ntia/publications/asr_final_report.pdf). By contrast, an independent evaluation of BTOP-funded adoption programs found little evidence that these efforts had statistically significant impacts on demand-side issues like adoption and skill development. See Janice A. Hauge and James E. Prieger, *Evaluating the Impact of the American Recovery and Reinvestment Act's BTOP Program on Broadband Adoption* (April 2015), https://digitalcommons.pepperdine.edu/cgi/viewcontent.cgi?article=1054&context=sppworkingpapers.

[3] *ACLP Tool Kit* at Section 6.1.

[4] To its credit, NTIA has solicited input on and released documents regarding broadband adoption and related issues for years. The ACLP has responded to many of these and has made many of the same points. *See, e.g., Comments of the ACLP to NTIA regarding the Broadband Opportunity Council,* Docket No. 1540414365-5365-01, June 10, 2015, https://ntia.gov/files/ntia/advanced_communications_law_policy_institute_boc.pdf.

2.   NTIA Should Seek to Maximize the Impact its DE Programs From the Start by Adopting Comprehensive Safeguards Against Waste, Fraud, and Abuse & Encouraging Collaboration with Expert Entities

The $2.7B available for DE grants as part of the IIJA represents an historic amount of funding for a critical set of issues. Other than a BTOP-era program focused on "sustainable" broadband adoption (noted above), there has been little comprehensive focus on, or resources dedicated to, DE issues by policymakers at any level.[5] Ultimately, it took a global pandemic to finally raise these issues to prominence and elicit a response from federal policymakers.

Though historic, it is important to frame the amount of DE funding available in proper context. The $2.7B on offer represents a smaller proportion of overall broadband funding than the $250M previously allocated via BTOP.[6] Given the centrality of digital equity to many recent federal, state, and local broadband initiatives, these funds should be viewed as a down payment on a long-term focus on demand-side issues. Accordingly, the soundness of program structure out of the gate will be crucial to assuring the achievement of measurable, sustainable gains over the long-term.

A key element of forthcoming federal and state DE programs should be the implementation of comprehensive safeguards to protect against waste, fraud, and abuse. Unfortunately, the Digital Equity Act does not explicitly reference these terms; instead, the Act appears to address these concepts indirectly. For example, the Act includes several reporting requirements by states, grantees, and NTIA itself vis-à-vis the use of funds, the efficacy of programs leveraging funds, etc.[7] In addition, the Act permits but does not require NTIA to contract with expert third-parties to "evaluate the impact and efficacy of activities supported" by DE grants and "develop, catalog, disseminate, and promote the exchange of best practices...to achieve digital equity."[8]

NTIA should view these statutory requirements as a baseline and strive to embrace more comprehensive and systematic approaches to both accounting for how funds are deployed and evaluating the programs leveraging grants. Critically, these requirements and an overall commitment to studying the operations and impacts of grant funded programs should last in perpetuity. NTIA should contract with expert, objective third-parties to track

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[5] This excludes the significant subsidies recently made available via the Affordable Connectivity Program. These funds have been and remain critical to addressing affordability issues for those who lack the means to consistently pay for a broadband connection. However, as discussed more fully below, bringing people online in whatever manner – holistically, with subsidies, etc. – is just one part of a more complex DE equation.

[6] The IIJA included $65B for broadband purposes. The $2.7B available for DE represents about 4.1% of the overall funding. BTOP was a $4B program, which means the sustainable adoption allocations, totaling about $250M, represented about 6.25% of overall funding.

[7] *See, e.g.,* IIJA § 60306(a).

[8] *Id*. at § 60306(b)(1)-(2).

each grant funded program. It should conduct longitudinal, data-driven assessments to gauge effectiveness and identify best practices. At the same time, NTIA should require states to conduct regular audits of DE-funded initiatives to hold grantees to account.

These kinds of safeguards are critical given the likelihood that funding will go to entities and programs that have little track-record with DE. The focus of the Digital Equity Act is broad – its "covered populations" encompasses communities beyond the focus of many established demand-side broadband programs. This extended reach is a good thing given the pervasiveness of demand-side challenges, but, in practice, the DE infrastructure (*e.g.,* groups dedicated to delivering digital literacy training) in some of these communities is thin or non-existent and will likely require investments of funds in untested programs.

The Act appears to recognize these dynamics and details some procedures for vetting prospective grantees and for clawing back funds in the event NTIA or a state cancels a grant award. Unless deployed aggressively, though, these mechanisms, which operate mostly after an award is made and funds are spent by a grantee, may not be enough to protect crucial DE funds.

A better approach would be to encourage, if not require, prospective grantees without a substantial track-record of success in addressing DE or broadband adoption to partner with expert nonprofits, ISPs, or other established entities with bona fides in this space. These partnerships need not involve the provision of services by an expert entity. Rather, expert entities could review and validate the approach of an untested grantee. For example, a nonprofit with expertise in providing social services to older or disabled veterans could engage a nonprofit with expertise in delivering DE-related services to older or disabled adults to develop relevant curricula and programming. A grant application from the veterans' group could reference its collaboration with the expert nonprofit and frame it as akin to a certification. When reviewing these kinds of applications, NTIA and states could score them more highly than those lacking such expert input and guidance.

In the near-term, this collaborative approach will increase the odds that DE funds are allocated wisely and spent efficiently. Waste, fraud, and abuse may still occur, but involving as many established entities as possible in every step of the grant-making process – from planning, to certifying approaches, to receiving and deploying grant funding – could help reduce the amount that is misused. Over the long-term, this approach will increase the number of expert firms and establish a sturdier infrastructure of DE support across a broader number of communities and populations.

3.   NTIA Should Encourage the Use of a Baseline DE Framework in the Development of DE Plans & Programs

In its RFC, NTIA has sought input on how it can help states and itself structure effective grant programs. Comprehensive planning will be critical.

To access available federal grant funding for broadband, state policymakers will have to collaborate with their counterparts at the local level, as well as stakeholders across the private and nonprofit sectors, to develop and deploy plans that detail how resources will be used to enhance digital equity and promote more robust broadband connectivity. Indeed, the IIJA positions equity as a primary consideration that must inform how BEAD funding is allocated – the statute requires states to ensure that whatever funding is distributed in support of broadband expansion is done in an "equitable and non-discriminatory manner."[9] Similarly, securing DE grant funding via the IIJA requires states to work with local counterparts to develop digital equity plans that cover the full range of broadband connectivity issues – *i.e.,* those on both the supply-side and demand-side.[10]

The products of these planning processes will be DE plans that detail how states will deploy funding. To assure some measure of consistency and comprehensiveness in this process, NTIA should encourage states to embrace a baseline DE framework to help jumpstart and guide the planning process by focusing attention on the aspects of equity planning that matter the most.

3.1 *Elements of a DE Framework*

Core elements of a meaningful DE framework should include:

Availability Assessment. At the outset, officials should undertake a comprehensive inventory of broadband availability in the city/county/region. This should encompass all forms of broadband regardless of technology and should catalog available speeds, price points, and service offerings. If the area is served (*i.e.,* if residents can readily subscribe to a broadband connection of some kind), then officials should continue forward with the framework. If the area is deemed unserved, different remedies are appropriate. This overlaps with BEAD planning, a dynamic reflected in NTIA's guidance to states encouraging them to develop their BEAD and DE plans in tandem. Doing so will allow broadband availability analyses to inform demand-side planning, and vice-versa. Ultimately, states should seek to deploy funding to areas of most need, as required by the IIJA (*i.e.,* BEAD funding goes first and foremost to unserved and undeserved areas; DE funding goes to certain covered populations).

Adoption Assessment. In served areas, the next step is to evaluate broadband adoption in the community. What are the adoption rates across relevant demographic and socioeconomic groups? What kinds of services and speeds are consumers using? Who isn't online? Data should be derived primarily from the Census Bureau's ACS reports and supplemented with survey and anecdotal data collected by states, localities, and relevant community groups.

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[9] IIJA § 60102(g)(2)(B).

[10] IIJA § 60304(c)(1).

Barriers Assessment. For those who aren't online, understanding specifically why they have not adopted broadband is essential. What are the major barriers impeding their adoption? Is it the cost of a broadband connection? The lack of a computing device? A hesitance or fear of going online? A lack of appreciation for how broadband can positively impact one's life? General disinterest? A granular understanding of these issues within each under-adopting user group will increase the chances that policy responses are impactful.

As noted above, some states and localities lack exposure to or experience with these issues. NTIA might offer high-level guidance to states and localities on DE-related issues for which robust literature exists. On the topic of barriers, there is significant consensus that the adoption framework encompasses:

- **Awareness of Broadband and its Availability.** Broadband adoption requires consumers to know what broadband is, what it can do, and that it is available to them for purchase. The COVID-19 pandemic certainly raised the profile of broadband and its many uses in enabling both convenient (*e.g.,* video-conferencing) and critical (*e.g.,* telemedicine, virtual schooling) services. Indeed, there is data suggesting a small but meaningful bump in broadband adoption in certain areas during the pandemic.[11] In addition, surveys taken during the pandemic indicate greater awareness of the essential nature of broadband.[12] Policymakers can build on this momentum by using the DE planning process to continue promoting the benefits of broadband and underscoring that it remains a critical tool.

- **Appreciating that Broadband is Relevant to One's Life.** Broadband adoption requires more than just an awareness of an available connection. Consumers must also view broadband as relevant to their life and therefore a valuable investment of resources. "Relevance" has long been part of the digital divide conversation. Survey data consistently highlights that many non-adopters do not perceive broadband as relevant or useful.[13] Such an outlook directly impacts whether they view the cost of a broadband subscription as affordable.[14] Properly designed outreach and education initiatives, especially those that receive DE grants, can help to reframe broadband as relevant for many non-adopters.

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[11] *See, e.g.,* Catherine Isley and Sarah A. Low, *Broadband Adoption and Availability: Impacts on Rural Employment During COVID-19,* Telecommunications Policy 46 (2022), https://www.sciencedirect.com/science/article/pii/S0308596122000143.

[12] *See, e.g.,* Colleen McLain et al., *The Internet and the Pandemic,* Sept. 1, 2021, Pew Research Center, https://www.pewresearch.org/internet/2021/09/01/the-internet-and-the-pandemic/.

[13] *See, e.g.,* Rafi Goldberg, *Unplugged: NTIA Survey Finds Some Americans Still Avoid Home Internet Use,* April 15, 2019, NTIA, https://www.ntia.gov/blog/2019/unplugged-ntia-survey-finds-some-americans-still-avoid-home-internet-use.

[14] *See, e.g.,* Charles M. Davidson, Michael J. Santorelli & Thomas Kamber, *Broadband Adoption: Why it Matters & How it Works*, 19 Media L. & Policy (2009), http://comms.nyls.edu/ACLP/Davidson_Santorelli_Kamber-BB-Adoption-Article-MLP-19.1.pdf.

- **Ability to Afford Broadband.** For some, the cost of a subscription is a major barrier to broadband adoption. In general, broadband adoption has long been correlated with income: those with higher annual incomes tend to have much higher rates of broadband adoption than lower-income households.[15] For many years, there were limited resources available to non-adopters who were unable to afford a broadband connection. Fortunately, a spate of new programs has been launched in recent years by the federal government, notably the ACP, and private ISPs to help address the affordability of broadband.[16] Eligible consumers can now use these subsidies in combination with low-cost broadband offerings from ISPs to access the internet for free.

- **Ability to Access Broadband on a Computing Device.** Another impediment to broadband adoption is lack of a computing device to harness a broadband connection. Purchasing such a device adds to the overall cost of adopting broadband, further compounding the affordability concerns of many non-adopters. Until recently, one of the only means of overcoming this barrier was via a nonprofit that refurbished old computers. Now, device subsidies are being rolled out as part of a broader focus on steering funds directly to consumers to address broadband affordability issues.

- **Privacy and Security Concerns.** A range of additional barriers impact broadband adoption decisions and how adopters use the internet. These include security and privacy concerns – *e.g.*, that being online increases the likelihood of having one's personal or financial information stolen. These concerns are common across both adopting and non-adopting households. Indeed, even avid internet users tend to avoid certain online activities because of safety and privacy concerns.[17] Among non-adopters, these concerns are especially prevalent among older adults.[18] DE programs should focus on these issues and develop plans for adapting curricula and training to reflect emerging issues like AI.

- **Accessibility-Related Barriers.** Accessibility barriers also remain for many people with disabilities. The broadband adoption rate among people with disabilities is

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[15] *See, e.g.,* Rafi Goldberg, *New NTIA Data Show Enduring Barriers to Closing the Digital Divide, Achieving Digital Equity,* May 11, 2022, NTIA, https://www.ntia.doc.gov/blog/2022/new-ntia-data-show-enduring-barriers-closing-digital-divide-achieving-digital-equity.

[16] For further discussion of these offerings, see *ACLP Tool Kit* at Section 6.

[17] *See, e.g.,* Andrew Perrin, *Half of Americans Have Decided Not to Use a Product or Service Because of Privacy Concerns,* April 14, 2020, Pew Research Center, https://www.pewresearch.org/fact-tank/2020/04/14/half-of-americans-have-decided-not-to-use-a-product-or-service-because-of-privacy-concerns/.

[18] *See, e.g.,* Ed Baig, *Older Adults Wary about their Online Privacy,* April 23, 2021, AARP, https://www.aarp.org/home-family/personal-technology/info-2021/companies-address-online-privacy-concerns.html.

somewhat lower than the rate for those without disabilities: 72% vs. 78%.[19] This may be because the quality of the user experience is reduced in many cases for people with disabilities as a significant number of websites and online services lack even basic accessibility features.[20]

- **Possessing the Skills Needed to Use an Internet Connection.** Many non-adopters and fledgling broadband adopters lack the skills needed to use broadband effectively, significantly decreasing the perceived usefulness of an internet connection. Promoting the notion of "digital readiness," of being ready, willing, and able to harness the transformative power of broadband, is essential to state and local efforts aimed at bringing more people online.[21] Developing these skills should be at the core of all programs that receive DE grant funding.

Partnership Assessment. Once the nuanced landscape of broadband connectivity is fully understood, the next step is to identify potential partners for bringing more people online. ISPs are natural partners given their presence in the locality. Partnerships with them could yield greater promotion of existing low-cost offerings, the availability of ACP subsidies, additional Wi-Fi deployments, or other appropriate responses to connectivity challenges facing certain communities. Currently, there appears to be a significant gap in awareness of the availability of low-cost broadband programs and subsidies among users who might qualify. Closing that gap should be a priority for policymakers and other stakeholders.

On the demand-side, partners might include anchor institutions, nonprofits, foundations, healthcare associations, community groups, senior centers, and other stakeholders in the local social infrastructure with established roots in the community and demonstrated bona fides vis-à-vis bringing people online and delivering targeted digital literacy training. These entities should be among those positioned by NTIA and states as ideal partners of inexpert entities seeking DE grant funding (see Section 2 for additional discussion).

Strategy Development. After the data has been gathered and assessed; the issues identified; and resources marshaled, state and local officials will then be in a better position to begin aligning these assets to address the challenges at hand. An inclusive process that brings all stakeholders to the table for collaborative, solution-focused discussions will be best vis-à-vis generating workable strategies.

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[19] *See* Andrew Perrin and Sara Atske, *Americans with Disabilities Less Likely Than Those Without to Own Some Digital Devices,* Sept. 10, 2021, Pew Research Center, https://www.pewresearch.org/fact-tank/2021/09/10/americans-with-disabilities-less-likely-than-those-without-to-own-some-digital-devices/.

[20] *See, e.g.,* Sarah Katz, *The Inaccessible Internet,* May 22, 2020, Slate, https://slate.com/technology/2020/05/disabled-digital-accessibility-pandemic.html.

[21] *See, e.g.,* John B. Horrigan, *Digital Readiness Gaps,* Pew Research Center (Sept. 2016), https://www.pewresearch.org/internet/wp-content/uploads/sites/9/2016/09/PI_2016.09.20_Digital-Readiness-Gaps_FINAL.pdf.

Solution Deployment. Once strategies have been developed, officials, in tandem with the network of partners convened to assist, can focus on the tactical deployment of actual solutions, including the securing and allocating of available grant funding. Priority should be assigned to those communities where broadband adoption rates are lowest.

3.2 *The Benefits of Using a DE Framework*

The benefits of the framework proposed above are numerous. The framework is:

- **Realistic.** Deploying the framework ensures that responses to broadband challenges are reflective of actual supply and demand needs. Moreover, the framework intentionally avoids starting from the perspective that a certain kind of technology or speed or price point is optimal. Rather, the framework embraces what is already available and works from there.

- **Data Driven**. The framework revolves around accurate and fresh data collected from the communities where challenges are evident. Wielding data in this manner helps to ensure that the identification of connectivity issues is as precise as possible.

- **Holistic**. This ground-up assessment will help to assure a more comprehensive understanding of any nuances in local broadband availability and adoption. It also serves as means of bringing all stakeholders together for collaborative, solution-focused conversations.

- **Hyperlocal.** The most impactful broadband equity strategies tend to be those that tap into partners, institutions, and other resources that are already available in communities.

- **Technology Neutral**. The framework does not value one kind of broadband technology over another. Rather, it embraces any platform that can provide reliable high-speed access to the internet.

- **Flexible**. Deploying the framework avoids having to shoehorn communities into one-size-fits-all "solutions." Instead, communities are empowered to develop strategies that reflect the unique characteristics of their local broadband market.

- **Amenable to Public-Private Solutions**. The framework orients government intervention around leveraging private and nonprofit partners whenever possible to address demand-side issues (*e.g.*, working together to promote low-cost offerings). This allows public officials to serve as conveners and coordinators, which are their optimal roles in the broadband space.

4.   NTIA Should Encourage States to Incorporate Best Practices into DE Plans & Programs

In addition to encouraging states and localities to use a DE framework as a starting point for developing their grant programs, NTIA should also identify best practices evident from past experiences on the demand-side, particularly those focused on (1) increasing broadband adoption rates and (2) bolstering digital literacy skills. These best practices should inform DE planning efforts at every level.

The following identifies a range of best practices that NTIA might endorse and encourage stakeholders to leverage during DE planning and grant implementation processes.

4.1   *Best Practices for Increasing Broadband Adoption*

The following details best practices that state and local policymakers might use to inform strategies aimed at bolstering broadband adoption rates in their communities.

- **Seek to Understand Broadband Adoption Dynamics.** As a first step, state and local policymakers should endeavor to understand the complexities associated with the broadband adoption decision-making process (a high-level overview is provided in Section 3). Once policymakers learn about the many different variables that influence adoption decisions, it will become clear that embracing the following best practices is the optimal way to improve adoption rates.

- **Understand that the Best Role for Policymakers is as a Supporter and Enabler of the Efforts of Others.** When it comes to increasing broadband adoption rates, the most impactful role for policymakers at the state and local levels is as a facilitator and promoter of the efforts of those working on the ground to connect the unconnected. This is not to say that state and local governments have no active role to play. To the contrary, these entities can and should play lead roles in planning, identifying goals/objectives for maximizing adoption rates, securing available grant funding to support adoption-oriented initiatives, and making sure expert entities have the resources needed to expand their efforts.

- **Appreciate the Hyperlocal & Community-Specific Nature of Broadband Adoption.** A core aspect of broadband adoption is that it is highly community-specific.[22] The barriers impacting older adults, for example, often differ in subtle but important ways from those impeding adoption among low-income households.[23] In addition, the challenges facing non-adopting households in rural areas usually differ in

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[22] *See, e.g.,* Charles M. Davidson, Michael J. Santorelli & Thomas Kamber, *Broadband Adoption: Why it Matters & How it Works*, 19 Media L. & Policy (2009), http://comms.nyls.edu/ACLP/Davidson_Santorelli_Kamber-BB-Adoption-Article-MLP-19.1.pdf.

[23] *See, e.g., Barriers to Broadband Adoption: A Report to the FCC*, ACLP at New York Law School (Dec. 2009), http://comms.nyls.edu/ACLP/ACLP-Report-to-the-FCC-Barriers-to-BB-Adoption.pdf.

significant ways from those facing non-adopting households in urban areas. A key takeaway for policymakers is that the most effective adoption-related strategies reflect this essential dynamic and prioritize hyperlocal efforts aimed at bringing more people online.[24]

▪ **Harness the Local Social Infrastructure.** To effectively address adoption-related barriers at the hyperlocal level, it is necessary for policymakers to tap into local social infrastructures. These networks of expert programs and institutions are key inputs to any adoption- and skills-focused program. As such, it is essential to understand the characteristics of these local networks, including the capacities and limitations of component organizations. Developing this knowledge base is critical to effective programmatic responses. In the context of the DE grant programs at issue here, such an approach is specifically contemplated, underscoring the importance of policymakers seeking to understand the nuances of their local social infrastructures sooner rather than later.[25]

▪ **Empower Experts.** Over the last decade, a range of nonprofits and other organizations have established themselves as experts in helping to connect the unconnected. Policymakers should seek to collaborate with these groups to support and expand their offerings. Many of these programs focus on specific under-adopting user groups and tailor their offerings accordingly. For example, Older Adults Technology Services (OATS) is the preeminent organization for helping to raise the broadband adoption rate among senior citizens.[26] Other efforts focus on addressing specific needs in under-adopting neighborhoods. For example, a recently launched partnership in Chattanooga, TN, pairs adoption-oriented outreach services with a focus on promoting telehealth to improve health outcomes in a high poverty part of the city.[27] Ultimately, it is up to policymakers to know who the broadband adoption experts are in their communities and proactively engage them to determine how a state or city can best support their work (see Section 2 for additional discussion).

▪ **Make Funding Available.** A major need of expert entities working on broadband adoption issues is funding. Effective education and outreach initiatives tend to be very resource-intensive. Training programs are usually multi-week courses that are

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[24] *See, e.g.,* Charles M. Davidson, Michael J. Santorelli & Thomas Kamber, *Toward an Inclusive Measure of Broadband Adoption*, 6 International Journal of Communication 2555 (2012), http://comms.nyls.edu/ACLP/Davidson-Santorelli-Kamber-Toward-an-Inclusive-Measure-of-Broadband-Adoption-IJOC-2012.pdf.

[25] IIJA § 60304(c)(1)(D)(i)-(xi).

[26] For more information, *see* https://oats.org/.

[27] *See, e.g.,* Michelle Hindmon, *Expanding Access to Create Connected Communities in Orchard Knob,* March 3, 2022, Chattanooga Pulse, http://www.chattanoogapulse.com/citylife/science-technology/expanding-access-to-create-connected-communities-in-orchard-/.

offered for free in community centers, libraries, and other community institutions.[28] As such, many programs can only scale their efforts incrementally after receiving adequate funding to support establishing programs in a new area. State and local policymakers are well positioned to help steer more resources to support continued expansion of proven programs. DE grant funding will certainly help to jumpstart such expansion, but additional funding from states, localities, philanthropies, and other sources will be needed for further growth and to sustain these efforts over the long-term (see Section 5 for further discussion).

▪ **Leverage the "Bully Pulpit" to Raise Awareness of the Benefits of and Opportunities for Broadband Adoption.** State and local policymakers should seize every opportunity to promote the importance of and opportunities for broadband adoption. Hearing from officials on these issues can be powerful motivators, especially if an official identifies concrete steps that can be taken to get online. In New York, for example, Governor Kathy Hochul specifically highlighted the availability of monthly subsidies via the Affordable Connectivity Program (ACP) as part of a push focused on enhancing connectivity across the state. This helped to increase enrollment in the ACP by 100,000 households in just a few months.[29] Similar efforts deployed across every state and locality can greatly increase take-rates.

4.2   *Best Practices for Enhancing Digital Literacy*

The following identifies best practices that state and local policymakers might use to inform strategies aimed at enhancing digital literacy skill development in their communities.

▪ **Leverage the "Bully Pulpit" to Raise Awareness of the Benefits of and Opportunities for Digital Literacy Skill Development.** Like with promoting broadband adoption, state and local policymakers should seize every opportunity to highlight the importance of developing digital literacy skills and identify opportunities for doing so. These opportunities will likely increase in number as federal digital equity grant programs are rolled out over the next few years. In the meantime, state and local officials should be sure to build a robust focus on digital literacy skill development into their broadband connectivity planning along the lines that NTIA recommended in its BEAD NOFO.[30]

▪ **Integrate Digital Literacy Skill Development into Educational Curricula.** In addition to promoting the importance of digital literacy skill development, state and local

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[28] *See, e.g., Connecting Rural Older Americans with Technology: Lessons From Senior Planet,* OATS (May 2020), https://oats.org/wp-content/uploads/2020/05/noco-lessons-from-senior-planet-1.pdf.

[29] *See Governor Hochul Announced 100,000 Families Have Joined Federal Broadband Affordability Program,* March 16, 2022, Office of the Governor of the State of New York, https://www.governor.ny.gov/news/governor-hochul-announces-100000-families-have-joined-federal-broadband-affordability-program.

[30] *BEAD NOFO* at p. 10.

policymakers can begin the process of integrating those opportunities into school curricula. This can help to ensure that the next generation of broadband users are prepared to leverage their connections in a responsible and impactful way. Such was attempted on a national scale via the Common Core initiative that was launched in 2010.[31] Implementation, though, has not been consistent, with some states refusing to adopt the core standards outright and with others failing to develop comprehensive digital literacy requirements. Related efforts have been deployed at a more local level since then. In New York City, for example, a consortium of technology companies, nonprofits, philanthropies, and others launched CS4All, which focused on making available coding and related offerings in schools across the city.[32] That effort has since spread across the nation, helping equip teachers with the skills needed to teach students about responsible computer use.[33] State and local policymakers can advance these and similar efforts by formally integrating digital literacy standards and requirements into school curricula.

▪ **Link Broadband Adoption and Digital Literacy with Workforce Development Programs.** One way to raise awareness of the relevance of broadband and highlight how digital tools can be used to generate income is to link broadband adoption and digital literacy skills to workforce development programs. Creating pathways or pipelines that connect a digital literacy program to a job placement initiative make explicit the practical importance of connectivity in today's digital economy. A number of such programs have already been developed by the private and nonprofits sectors. Many involve coding academies or bootcamps that are sponsored by tech companies, which then consider graduates for full-time employment.[34] Even for non-adopters, this approach has proven to work. OATS, for example, offers a range of workforce-related offerings to older adults, many of whom are interested in continuing to work or pursuing a second career.[35] This often translates into more sustainable broadband adoption. Increasingly, cities and states are seeking to coordinate these myriad offerings as part of overall digital inclusion and workforce development planning.[36] By continuing to serve as convenors and

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[31] *See, e.g.,* Monica Burns, *The Common Core and Digital Skills Development,* July 1, 2015, Edutopia, https://www.edutopia.org/blog/common-core-digital-skills-development-monica-burns.

[32] *See* CS4All, About, https://www.csforall.org/about/csnyc/.

[33] *Id.*

[34] *See, e.g.,* Jessica Stillman, *This is How Coding Bootcamp Will Impact Your Career*, Inc, https://www.inc.com/jessica-stillman/this-is-how-that-coding-bootcamp-will-impact-your-career.html.

[35] *See, e.g.,* Paula J. Gardner, *Older Adults and OATS Computer Training Courses – A Social Impacts Analysis,* N.Y. Academy of Medicine (April 2010), https://cdn-std.droplr.net/files/acc_695959/txMwZF?download&response-content-disposition=attachment%3B%20filename%3DNew-York-Academy-of-Medicine-study.pdf.

[36] *See, e.g.,* Sydney Diavua, *Building Opportunities and Skills for a Growing Digital Workforce,* Federal Reserve Bank of Philadelphia (Winter 2016), https://www.philadelphiafed.org/community-development/workforce-and-economic-development/building-opportunities-and-skills-for-a-growing-digital-workforce.

facilitators, state and local policymakers can greatly enhance the impact of these programs vis-à-vis broadband adoption and digital literacy skill development.

5.   NTIA Should Ensure that DE Grant Fund Administrators and Recipients Don't Fall Off a Financial Cliff When the Money Runs Out

The Digital Equity Act appears to be silent on a key point – the long-term sustainability of the programs that receive DE grant funds. Indeed, there does not appear to be adequate recognition that many grant-funded programs may be unable to sustain themselves once grant funding runs out. Left unaddressed, there is a high probability that some of these programs will face and likely fall over a financial cliff once their grant awards are fully deployed.

Sustainability of DE programs is critical because digital equity and its component parts – notably broadband adoption and digital skill development – are ongoing concerns that will require constant attention and resources. Adoption levels are increasing anew thanks to ACP subsidies, but they may begin to plateau again or drop if those funds run out or if other aspects of the adoption equation are inadequately addressed. For example, the inability of policymakers to protect consumer data privacy, strengthen cybersecurity, or stem the tide of disinformation could negatively impact broadband adoption in some communities. At the same time, the constant emergence of new issues – like the rapid rise of AI and the potential for it to reshape every aspect of modern life – underscores the importance of possessing a core set of digital literacy skills and having flexible training programs in place to nimbly address these issues in a timely manner.

NTIA can leverage its stewardship of DE issues to address these issues in several ways. It can:

- **Require States to Address Sustainability Issues in their DE Plans and Grant Programs.** This would require states to discuss the issue with localities and other partners during planning sessions. These conversations could be natural forums for raising the issue of carving out funding in state, local, nonprofit, philanthropic, and private sector budgets to assure long-term sustainability of worthwhile and impactful DE programs.

- **Highlight the Potential for States and Localities to Integrate DE Programs into Government Processes.** Doing so could relieve some financial pressure on grantees by providing them with revenue-generating opportunities. For example, a state or municipality could contract with a successful DE program to deliver social services like workforce development in certain communities, or develop school curricula focused on digital literacy, or facilitate partnerships with healthcare providers to foster greater awareness and use of telemedicine services.

- **Position For-Profit Entities, Like ISPs and Other Organizations, as Favored Partners with Public and Non-Profit Entities Seeking DE Funding.** The Digital Equity Act does not include ISPs or other private for-profit entities in the list of eligible DE grant recipients.[37] However, the Act permits NTIA to allow partnerships between eligible recipients and other entities that it "determines to be in the public interest."[38] ISPs should be at the top of NTIA's list of ideal partners. ISPs have substantial expertise in the DE space and, from a sustainability standpoint, a significant track-record of dedicating robust resources to these efforts. The following offers a sampling of these efforts:

  - **AT&T Access**. AT&T's Access offers eligible customers broadband service of up to 100 Mbps for $30/month or less.[39] Eligible households are those that participate in the ACP and/or receive SNAP, National School Lunch, or have a household income below 200% of the federal poverty guidelines.[40] Qualifying customers can use the ACP subsidy to pay the reduced cost of service offered via Access, providing them with free connectivity.[41]

  - **Charter Spectrum Internet Assist**. This program offers eligible households 30 Mbps broadband service for $15/month.[42] To be eligible, a member of the households must be enrolled in the National School Lunch Program (NSLP), the Community Eligibility Provision of the NSLP, or Supplemental Security Income for those over the age of 65.[43] Charter also maintains a Spectrum Internet 100 program, through which customers who enroll in the ACP can receive 100 Mbps internet service at no monthly cost.[44]

  - **Comcast Internet Essentials**. Comcast's Internet Essentials is the oldest ISP-led low-cost broadband program. It was established in 2011 and succeeded in connecting over 10 million people to the internet in its first decade.[45] Internet Essentials currently offers eligible households a 50/10 Mbps connection for $9.95/month.[46] An Internet Essential Plus package is also available – it provides

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[37] IIJA § 60305(b).

[38] IIJA § 60305(b)(8).

[39] AT&T, Access, https://www.att.com/internet/access/.

[40] *Id.*

[41] *Id.*

[42] Charter, Spectrum Internet Assist, https://www.spectrum.com/internet/spectrum-internet-assist.

[43] *Id.*

[44] *Charter is Advancing Access to Affordable, Reliable High-Speed Internet Service,* April 28, 2022, Charter Communications, https://policy.charter.com/advancing-access-to-affordable-reliable-internet.

[45] *10 Years of Internet Essentials,* Comcast (March 2021), https://update.comcast.com/wp-content/uploads/sites/33/dlm_uploads/2021/03/IE-ProgressReport_FINAL.pdf.

[46] Comcast, Internet Essentials, https://internetessentials.com/.

100 Mbps service for $29.95/month, or for free if enrollees also sign up for the ACP.[47]

- **Cox Connect2Compete**. This program offers eligible households a 100 Mbps connection for $9.95/month.[48] Eligibility revolves around whether a household receives any form of government assistance for children in K-12.

- **T-Mobile's Project10Million.** T-Mobile has launched several low-income-focused programs over the years. Among its most expansive is Project 10Million, which works directly with schools to deliver free mobile hotspots and computing devices to qualifying students (*i.e.,* those enrolled in the National School Lunch Program).[49]

- **Verizon Fios Forward**. Verizon launched this program in April 2020. It offers eligible households a 300 Mbps broadband connection for $39.99/month.[50] Those who enroll in the ACP will receive service for free.[51]

- **Create a Council or Task Force Comprised of DE Experts.** This group would provide NTIA, the FCC, states, and other relevant government entities with ongoing input and data regarding new priorities, new training techniques, best practices, etc. This could be modeled after the FCC's Consumer Advisory Committee or any number of other federal advisory bodies.

- **Advocate for More DE Funding from Congress.** This request dovetails with related advocacy efforts around making the ACP permanent. Indeed, Congress could bundle the ACP and DE grant programs together and create a single predictable revenue stream to funding them over the long term.

If NTIA is serious about addressing DE over the long-term, then it must address sustainability and should, respectfully, integrate the notions and recommendations articulated above.

6.   Conclusion

NTIA has a unique opportunity to move the needle on DE in a meaningful manner. Given the specificity of the Digital Equity Act and the complexity of overseeing the deployment of 50 different DE grant programs, all while establishing and administering its own DE grant program, NTIA must be intentional and deliberate every step of the way. The preceding comments are offered to assist in helping to frame out major aspects of these DE programs

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[47] *Id.*

[48] Cox, Connect2Compete, https://www.cox.com/residential/internet/connect2compete.html.

[49] T-Mobile, Project 10Million, https://www.t-mobile.com/business/education/project-10-million.

[50] Verizon, Fios Forward, https://www.verizon.com/home/fios-forward/.

[51] *Id.*

and highlight key aspects – like the importance of protecting against waste, fraud, and abuse; assuring robust participation by established DE entities; and focusing on long-term sustainability. The ACLP stands ready to assist NTIA and others in the DE space in this once-in-a-lifetime endeavor to finally close the digital divide.