

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of)	
)	
Draft Eligible Services List for FY2013)	CC Docket No. 02-6
)	GN Docket No. 09-51
Schools and Libraries)	
Universal Service Program)	

**COMMENTS OF EDLINE
DRAFT ELIGIBLE SERVICES LIST, FY2013**

Edline, LLC (“Edline”), a leading provider of web hosting services for the educational marketplace, and a participant in the Schools and Libraries (“E-rate”) universal service support program, hereby files through counsel these comments to the draft Eligible Services List for Funding Year 2013 (the “draft ESL”).¹ Edline and its affiliates provide web hosting services to approximately 20,000 schools throughout the country.²

In these comments, Edline seeks confirmation from the Bureau that data input and retrieval associated with applicant-created forms and templates is eligible as part of web hosting. Forms and templates are common features on all websites today and are integral to how school websites are created, administered and function. Forms and templates are used to accomplish such basic website functions as creating accounts, changing passwords, logging-in to the website, contacting a website administrator or teacher for support, allowing users to post content, and allowing users to engage in interactive communication on the website. The Commission has never suggested that forms and templates are ineligible, but such forms and templates inherently involve data input and retrieval.

¹ The draft ESL was released on July 5, 2012 by the Wireline Competition Bureau (the “Bureau”) of the Federal Communications Commission (the “Commission”). Wireline Competition Bureau Seeks Comment on Draft Eligible Services List for Schools and Libraries Universal Service Program, *Public Notice*, 27 FCC Rcd 7405 (2012) (“Public Notice”).

² Edline merged with BlackBoard in October 2011. Other web hosting companies that are affiliated with Edline are SchoolWorld, SchoolCenter, SchoolFusion, and TeacherWeb.

The description of what is ineligible for web hosting includes the phrase “features or software involving data input and retrieval.”³ However, the entire section suggests that data input and retrieval is permissible when associated with applicant-created content for an educational purpose. In conjunction with issuing the Eligible Services List for FY2013, Edline requests the Bureau to clarify that “data input and retrieval” associated with applicant-created forms, which both serve an educational purpose and are essential to website administration, are eligible. A clarification in the Order may be all that is needed without editing the draft ESL.

I. Forms And Templates, Which Enable Data Input And Retrieval, Are Essential To The Functioning Of School Websites.

To illustrate how schools and website administrators use forms and templates to create, maintain, and operate websites for a school community, consider the following examples:

- Although school websites are visible to the public, only registered users can post content or view password-protected pages. Registration enables the website administrator to determine the web pages and content the user can see and post. The registration process is enabled through a template or online form that contains blank fields and asks the user to input data such as the user’s name, preferred password, and other basic demographic information to validate the user’s presence on the website. (*See Attachment 1*).
- Every school website allows authenticated users to post materials and engage in interactive communication over the website. These data input functions also are enabled through the use of forms or templates that contain blank data fields and ask the user to input the message or content it wishes to share. (*See Attachment 1*).

In addition to the above examples, schools, teachers and website administrators create forms for any number of reasons including, for example, collecting parent permission for field trips and submitting questions in advance of parent–teacher conferences. (*See Attachment 1*). This capability, to create fill-in-the-blank content, is a part of the administrative interface of the web hosting service and allows a teacher to create a web page containing a set of questions for parental feedback rather than creating a form offline and uploading it to the website as a PDF file. Instead of each parent

³ Draft ESL at 13.

printing and manually filling out permission slips in PDF forms, for example, and bringing the printed and completed forms to the school for further administrative action, a web page form that is created and posted by the teacher allows parents to submit data directly to the teacher, saving time and resources.

Although forms and templates are created for educational purposes and are needed for basic website functions, eligibility is ambiguous because these tools inherently involve data input and retrieval. The draft ESL indicates that “features or software involving data input and retrieval” are ineligible.⁴ However, consistent with other language in the draft ESL, Edline does not believe the Commission or Bureau intend that data input and retrieval associated with applicant-created forms, are or should be ineligible. Indeed, other web hosting providers have assumed, perhaps rightly, that applicant-created forms and templates, and associated data input and retrieval, are 100% eligible. Edline seeks clarification and confirmation from the Bureau that this interpretation is correct.

II. Bureau Guidance Is Needed To Confirm Eligibility For Data Input And Retrieval That Is Associated With Website Forms And Templates.

In recent years, the Commission and the Bureau undertook significant effort to make clear the eligibility of various components of a web hosting service that are essential to, and inherent in, the functioning of a school website. These clarifications affirmed the eligibility of integrated web hosting software, content editing and content creation by schools and users, password protection and interactive communication features. The Bureau also rightly affirmed the ineligibility of vendor-provided content.

The Commission and Bureau clarified the definition of web hosting to move away from a static vision of websites as simply repositories of information that is “uploaded.” Today, the definition of web hosting recognizes the interactive nature of websites that facilitate the exchange of

⁴ Draft ESL at 13.

information among members of the school community. The clarified definition of web hosting includes as eligible “website administration tools for the creation and maintenance of the website.”⁵ Forms and templates that allow a school or website administrator to create website accounts, change passwords, create web pages, accept user messages, and facilitate user postings are all good examples of administrative tools that are essential to the functioning of the website.⁶

Although the Bureau and Commission⁷ have never asserted that online forms and templates are ineligible,⁸ such forms require the input of data. There is ambiguity in the draft ESL regarding “data input and retrieval.” The draft ESL sets forth as ineligible:

Content supplied as part of a web hosting service created by third-party vendors or the web hosting service provider itself and any features or software involving data input or retrieval other than the provision of applicant-created content for an educational purpose (*e.g.* teacher web pages or blogs).⁹

⁵ Draft ESL at 12.

⁶ The Bureau also could be of the view that online forms and templates, which allow for the input of data, messages and content by users, are eligible as features that facilitate interactive communication on the website.

⁷ In a Fall 2009 USAC training, USAC listed templates as ineligible features. In subsequent presentations, USAC did not specifically identify templates as ineligible. *See*, page 16 of the “Advanced Eligible Services Presentation” for the Fall 2009 USAC training, available at <http://www.usac.org/res/documents/SL/training/2009/2009-sl-fall-advance-eligible-services.pdf>.

⁸ Ineligibility was assumed by service providers in the past because the Eligible Services List formerly provided that “content editing,” and “data input and retrieval” were ineligible. *See*, Wireline Competition Bureau Announces Comment Deadlines on E-Rate Broadband Notice of Proposed Rulemaking, Eligible Services List Further Notice of Proposed Rulemaking, and on E-Rate Draft Eligible Services List for Funding Year 2011, *Public Notice*, 25 FCC Rcd 7317, 7329 (2010). However, the Commission clarified last year that ineligible “content editing” does not apply to content editing and content creation by users, teachers and students, but rather to third-party vendor content. Accordingly, the words “content editing” were eliminated last year from the description of what is ineligible for discounts. “We provide further clarifications from the Sixth Report and Order regarding features that facilitate the ability to communicate, (such as blogging, e-mailing over a school or library's hosted website, discussion boards), and services that may facilitate real-time interactive communication (such as instant messaging or chat). Among other revisions, we remove the phrase “content editing” from the ESL section explaining the ineligible features of a web hosting service. This clarification addresses questions in the record on whether the term “content editing” applied to teachers or students using the interactive features of a school's web page such as blog or discussion board” *Schools and Libraries Universal Service Support Mechanism, Order*, 26 FCC Rcd 13280, 13283, ¶12 (2011) (“2011 ESL Order”).

⁹ Draft ESL at 13 (emphasis added).

Guidance and clarification from the Bureau is needed about what this language means and how it should be interpreted. It may be that the Commission intends that applicants can create their own content for educational purposes, including web pages that contain fill-in-the-blank forms and enable data input and retrieval, but the Bureau needs to confirm that this is a fair reading. Edline requests the Bureau to make it clear that data input and retrieval is permissible when associated with applicant-created content, including applicant-created forms, that are posted on a website for an educational purpose.

III. The Bureau Has At Least Two Options For Clarifying The Eligibility Of Data Input And Retrieval.

Edline has two suggestions for how the Bureau can cure any confusion over the eligibility of data input and retrieval associated with applicant-created forms and templates.

First, the Bureau could indicate in the FY2013 Eligible Services List Order that schools/applicants create and utilize forms and templates on their websites for many essential educational purposes, including to create accounts, change passwords, log-in to websites, contact administrators for support, allow users to post content, and allow users to engage in interactive communication on the website. Nothing in the draft ESL should be read as suggesting that associated data input and retrieval is ineligible. Applicant-created forms, posted to a website, are eligible either as website administration tools, or as applicant-created educational content that involves data input or retrieval, or both.¹⁰

¹⁰ The Bureau could justify the eligibility of data input and retrieval in forms and templates as ancillary to eligible web hosting because, as a practical matter, it is not possible to assign a separate cost to these inherent website functions. The FCC rule for “ancillary” indicates that an otherwise eligible product or service that contains ineligible components on an ancillary basis does not require cost allocation if the cost of the ineligible functionality cannot be separately determined and if the product or service is the most cost-effective means of receiving the eligible product or service without regard to the value of the ineligible functionality. *See* 47 C.F.R. §54.504(e)(2).

Edline assumes the Bureau would reiterate that this clarification of eligibility does not change the ineligibility of vendor-provided content and that “other systems such as: Student Information Systems (SIS); databases; student attendance or grades or grade management; course scheduling; tests or testing systems; on-line/interactive education systems; and learning/education management systems” will remain ineligible.¹¹

A second option is for the Bureau to clarify what is ineligible for web hosting discounts by making it clear that applicant-created content (not vendor-created content) for an educational purpose can include forms and templates that schools create and post on their websites for data input and retrieval:

The following services are **NOT ELIGIBLE** for discount:

...

Content supplied as part of a web hosting service created by third-party vendors or the web hosting service provider itself and any features or software involving data input or retrieval other than the provision of applicant-created content for an educational purpose (*e.g.* teacher web pages, **school web pages that include forms and templates**, or blogs).¹²

IV. Conclusion.

In recent years, the Bureau has made many helpful changes to the Eligible Services List to make clear the eligibility of web hosting components that are essential to and inherent in a web hosting service. These clarifications recognized the dynamic, interactive nature of school websites, and affirmed the eligibility of integrated web hosting software, content editing by schools and users, password protection and interactive communication features. Website forms and templates that applicants use to enable data input and retrieval are integral to the functioning of school websites

¹¹ Draft ESL at 13.

¹² Draft ESL at 13 (suggested edit in bold and underline).

and are used for an educational purpose. The Commission has never declared forms and templates ineligible, but such forms require data input. Consistent with language in the draft ESL that suggests data input and retrieval is permissible in connection with applicant-created content for an educational purpose, Edline requests the Bureau to clarify that data input and retrieval associated with applicant-created forms, which both serve an educational purpose and are essential to website administration, are eligible.

Respectfully submitted,

_____/s/_____

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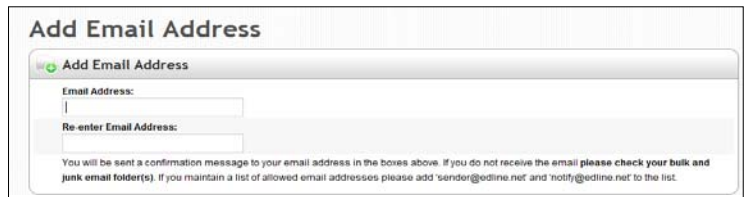
ATTACHMENT 1

These typical website forms and templates allow users to post news items, post comments, add emails and change passwords. Users are prompted to enter data into blank fields which is retrieved and used by the website administrator to facilitate the essential functioning and administration of the website. Website administrators and users also can create web pages that contain fill-in-the-blank questions or multiple choice questions for posting on the website.



What would you like to call your new news item?

NEWS ITEM TITLE

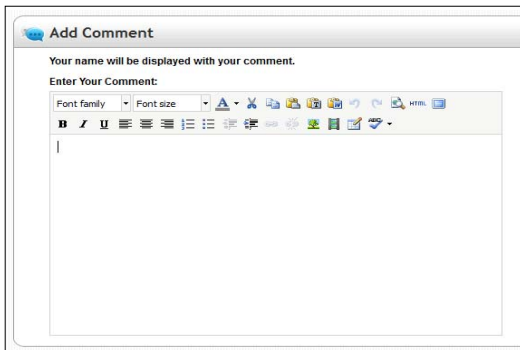


Add Email Address

Email Address:

Re-enter Email Address:

You will be sent a confirmation message to your email address in the boxes above. If you do not receive the email please check your bulk and junk email folder(s). If you maintain a list of allowed email addresses please add 'sender@edline.net' and 'notify@edline.net' to the list.



Add Comment

Your name will be displayed with your comment.

Enter Your Comment:

Font family: Font size:



Change Your Password

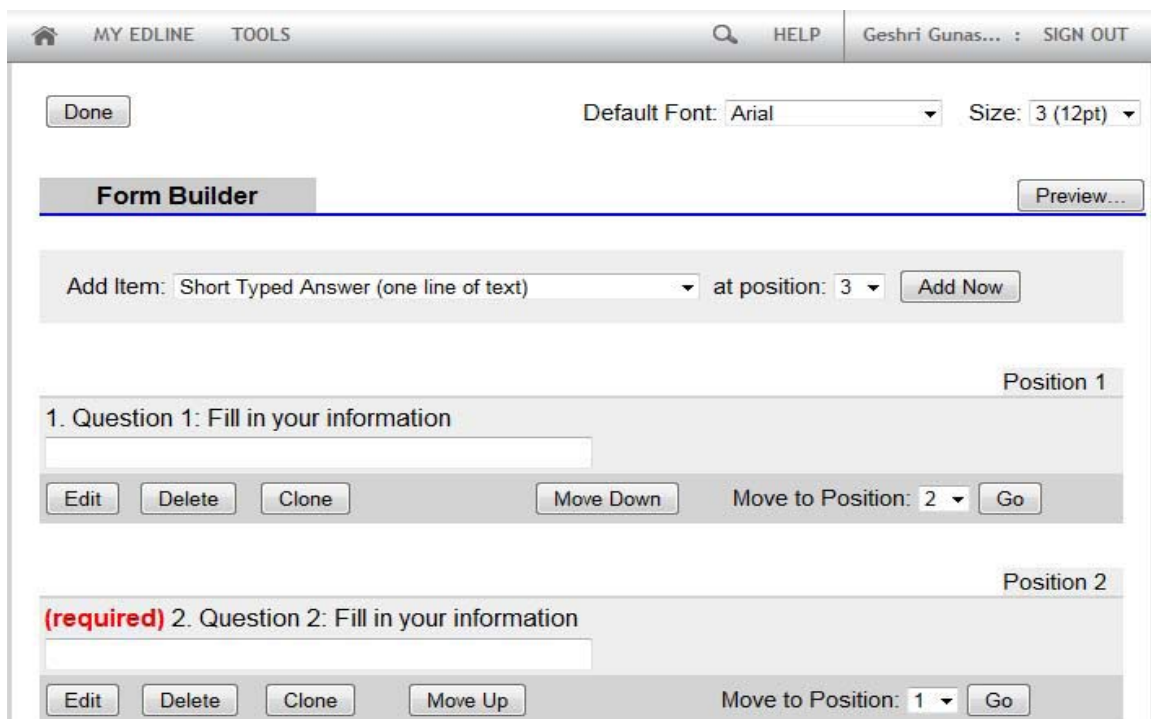
Password Rules

- Passwords can contain only letters and numbers.
- Passwords must be at least 4 characters long.
- Passwords should be easily remembered and stored in a safe place.
- The new password must be different than the current password.

Type your current password:

Type your new password:

Retype your new password:



MY EDLINE TOOLS Default Font: Size:

Form Builder

Add Item: at position:

Position 1

1. Question 1: Fill in your information

Move to Position:

Position 2

(required) 2. Question 2: Fill in your information

Move to Position:

CERTIFICATE OF SERVICE

I, Carly T. Didden, certify on this 6th day of August 2012, a copy of the foregoing "Comments" has been served via electronic mail, to the following:

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