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TITLE:

LULAC Council 402 "The Education Council;" The Digital Divide and Latino Learners

BACKGROUND OF ORGANIZATION

The League of United Latin American Citizens (LULAC), founded in 1929, is the oldest and most widely respected Hispanic civil rights organization in the United States of America. The founders of LULAC created an organization that empowers its members to create and develop opportunities where they are needed most.

Houston's LULAC Council 402, "The Education Council" was founded on Dec. 14, 1962. The Council has a 20-year history of providing over $526,500 in scholarships to deserving economically disadvantaged youth. In addition, the organization has advocated for the Latino students in the community, standing against school segregation and advocating for equitable quality education with resources for Latino student success. A pattern of Latino disenfranchisement exists in the chronicles of our history, and for that reason, LULAC Council 402 was convened. LULAC Council 402 is known as the "Education Council."

Article II, Philosophy of the LULAC bylaws reads, "We believe that education is the foundation for the cultural growth and development of this nation and that we are obligated to promote, protect and assure the right of our people to an education that is in accordance with the best American educational principles and standards; that we must deplore any infringement of this right wherever it may occur and regardless of whom it may affect."

ABSTRACT

The term "digital divide" refers to the inequality in access to technology that exists between communities in the United States due to regional and demographic differences, particularly communities of color, people with disabilities and socio-economic groups. The COVID-19 pandemic, along with the subsequent move in spring of 2020 to the use of the internet and digital communication devices for K-12 education brought into high relief the educational opportunities lost, or "homework gap," suffered by young learners of color, learners with disabilities and learners living in poverty. This gap existed well before March of 2020. The internet ceased to be considered supplemental or an "extra" of education at least ten years ago. It is considered integral to PK-12 as well as post-secondary learning.

Further, the digital divide in our country affects more than school-aged children. Safe, reliable, quality broadband access to the internet is now an integral need for American families for health care, employment, full civic engagement, and more.

LULAC Council 402: "The Education Council" is in favor of municipal and state-wide policies that will ensure the provision of affordable, quality, high-speed broadband internet service as a utility, helping to ensure access to low-income families. Both urban and rural low-income Americans are limited in their access to broadband: the rural because they may not have the connection infrastructure or capability, and the urban because of high costs and punitive

corporate billing rules and policies maintained by monopolistic corporations such as Comcast, A T & T and Verizon.

PROBLEM STATEMENT

LULAC 402 presents this white paper to present support for the following facts.

The "digital divide" in our country is not just about a lack of access to digital devices by low-income families. The digital device is also about a lack of access to affordable broadband internet service. Safe, reliable, quality broadband access to the internet is now an integral need for American families for health care, employment, full civic engagement, and more. School-aged children living in low-income families, those receiving special education services and children of color are disproportionately harmed by this lack of access to affordable, quality broadband.

For these reasons, LULAC 402 recommends:

- Any COVID-19 economic recovery program should include universal internet access, including to rural areas and low-income families,
- Establishment of government grant program(s) to provide funds to build and/or modernize internet connectivity, conditionally granted to protect the American public from price gouging, unfair company policies which promote internet exclusivity, and sub-par internet connectivity quality,
- Establishment of government funding assistance providing support to municipalities to build publicly-owned, democratically controlled broadband,
- Creation of policies protecting any public grant funding for broadband expansion that is based on assurances of universal service, with minimum speeds, standards to protect

privacy and affordability. Broadband should be considered the "new electricity," a public utility that is a basic human necessity, not a luxury. All internet service providers should offer a Basic Internet Plan to provide quality broadband speeds at low- or no-cost to people with disabilities, the elderly, and those living in poverty (i.e., broad categorical eligibility).

- Protection and expansion the Lifeline program to connect low-income households to the internet via more than just smartphones (to include other internet devices such as tablets and laptops,)
- Assurances that low-income communities, including public housing, are offered internet free of charge,
- Assurances that people with disabilities have full access to the internet, including full Section 508 compliance, including the assurance that government agencies can receive ASL video calls from people who have hearing loss, are hard of hearing or deaf.
- Assurances all schools, libraries, hospitals and other essential community facilities are connected with equity and affordability.

BACKGROUND

The 1996 Telecommunications Act, signed by President Clinton, was meant to encourage competition between the telephone companies and other internet signal providers such as cable companies. Brotman (2016) wrote that one of the reasons for the law was, "to have competition serve as a force for broadband network development nationwide," and that Congress wished to, "accelerate the deployment of an advanced capability that will enable subscribers in all parts of the United States to send and receive information in all its forms—voice, data, graphics, and video— over a high-speed switched, interactive, broadband, transmission capability." The idea

of fair competition between the telephone and cable companies inspiring universal, low-cost, fair access to quality, state-of-the-art broadband was attractive, but it didn't work.

Wheeler, the former chair of the Federal Communication Commission, (2020) writes that, "Tens of millions of Americans do not have access to or cannot afford quality internet service." He writes that COVID-19 may have a silver lining, which is, "...the increased awareness that the current system for supporting access to high-speed broadband has failed." This lack of access to quality or affordable service is particularly pronounced in rural areas, but the urban poor are just as cut off as those in rural Alaska, Arkansas, Maine, or Texas. The federal government has provided over $22 billion to get broadband into the rural parts of the United States, but Wheeler estimates that between 6% and 12% of Americans do not have access to quality broadband.

Latinx and other students of color living in urban areas may have a different accessibility problem: affordability. During the administration of President Reagan, "Lifeline" was created. This was a subsidy to assure that the poor had access to telephone service, the ability to call 911 and later this was expanded to include a wireless smartphone. This is undoubtedly a benefit, but using a smartphone for homework can be difficult, particularly when there are multiple students in the household.

Wheeler (2020) writes that a Pew Research study found that half of the Americans polled who don't currently have broadband responded that they don't want the service because it is prohibitively expensive.

According to Anderson and Kumar (2019), the "digital lives of lower- and higher-income Americans remain markedly different." They note that about 29% of adults living in households with annual incomes of less than $30,000 don't own a smartphone. Forty-four percent of these families don't have broadband connectivity and 46% don't have a computer. Sixty-four percent

don't have a tablet. This is in contrast to families who reported they made between $30,000 and $99,000 annually. Eighty-five percent have a smartphone, 83% have a computer, 81% have broadband and 55% have a tablet. The authors found that lower-income Americans rely on smartphones for tasks that are usually allocated to larger screens, including educational tasks such as research for homework.

Is this a simple problem of supply and demand? Why not allow unfettered capitalism to work in this situation? Why not let the market decide?

If an American examines their wired- and wireless phone bill with a magnifying glass, they may find that there is a monthly fee that subscribers pay that is meant to support the expansion of broadband to everyone. It is 21.2% of the interstate and international call charges. However, as more and more people use alternatives to the phone for these calls, the revenues are lessened. The policy has not kept up with consumer habits.

The fee points to another important point. The cable and telephone companies that are the primary delivery service for internet access have been *heavily* subsidized with tax dollars and consumer fees to ensure that the service that they are delivering is a quality signal, one that has kept up with the demands for bandwidth and has kept up with the technology. In 2015, the Federal Communications Commission (FCC) defined broadband as a signal that delivered 25 megabits per second to the home, and 3 megabits upstream (from the home). This was considered adequate in 2015.

In 2020, more than 90% of Americans with internet service receive at least 100 megabits per second, and 85% can receive 250 megabits. Because the FCC standards have not changed, the internet service providers are held to the antiquated 2015 standards when building networks in 2020.

Furthermore, the FCC does not insist that all new infrastructure be fiber-based. This means that bidders on contracts could conceivably be laying a connectivity line that is much less effective (e.g., coaxial cable) and that throttles signals, signals that will surely take more bandwidth in the future as the functionality of the applications, programs, and content becomes more complex. With fiber, once the fiber infrastructure is placed, the signal size or "throughput" is a question of modifying the electronics, as opposed to laying a different type of line.

Leonhardt (2019) wrote about Thomas Phillopon's study of the American internet usage in comparison to other countries. Phillopon, a professor at New York University wrote the 2019 book *The Great Reversal: How America Gave Up on Free Markets*. Phillopon argues that companies, including telecommunications companies, in the U.S. have been allowed to grow so behemoth-like that they are able to control prices to keep them high and keep worker wages low. Phillopon describes his Parisian parents' monthly bill for broadband, cable television and two mobile phones. They pay roughly $100 a month. In comparison, the analogous suite of services in the U.S. would be more than double the cost. Leonhardt writes, "The irony is that Europe is implementing market-based ideas--like telecommunications deregulation and low-cost airlines--the Americans helped pioneer." Phillopon writes, "the U.S. has effectively abandoned these market-based ideas in favor of large monopolistic corporations."

The private cable and telephone companies have never been free of tax-payer funded, government subsidies and government sanctioned consumer fees to do the work of providing an internet signal. Therefore, any cry for a free market-fix is not germane.

How has the COVID-19 period affected the demand for and the public's relationship with internet service?

The Brookings Institution published a report by Tom Wheeler in May of 2020. Wheeler found that the public's hunger for broadband access has become acute during the COVID-19 period. He reported that in one study, the pandemic seems to have prompted almost a year's worth of broadband traffic growth in the course of only a few weeks. Wheeler argues that, "the internet is no longer 'nice to have,' it is critical, and this will not change after the vaccine is available to the majority of Americans." Tayo, Thompson and Thompson (2015) write, "Equitable access to information is an essential principle in a global information economy."

How did Texan children of color and children living in poverty fare during the COVID-19 period in spring of 2020 in terms of connectivity to education?

In 2020, with the worsening of the COVID-19 pandemic and the subsequent closing of face/face instruction in the schools, the disparity between the internet haves and have-nots became stark. Wheeler (2020) writes that, "of the approximately 50 million students sent home by school closing, over 9 million lack internet access."

The primary reason for this lack of internet is affordability. It is true that Comcast offers a program called "Internet Essentials" that is about $10 monthly, and during COVID-19, it has even offered two free months of service in some areas. However, the company is not prohibited from denying a family who owes a back cable bill. The company is also not mandated to offer an affordable pay-back system for a back cable bill.

In Baltimore, the school system enrolled hundreds of families for the Internet Essentials service, but when the two free months were up, decided to send Comcast a check to continue the students' service. The Baltimore City Public schools realized that if they didn't pay the $650,000 bill, most of the families' internet signals would suddenly go dark. This implied zero instruction for those students (Ballinget, 2020).

The solution to providing lessons or content by many school districts was to rely on the internet to deliver two-way lessons through communication platforms such as Zoom and Microsoft Teams. There was also the provision of cable-television programming (one-way communication), in which students would observe a taped lesson, and presumably interact with the content later; or finally hard-copy paper packets picked up by parents and returned to the schools.

Many low-income students struggled to receive their lessons through their parents' smartphones. In families with multiple children, with only one or two smartphones, this resulted in multiple missed live lessons and in some cases, ultimately resignation followed by abandonment.. Students receiving special education services were sometimes able to successfully navigate smartphones for lessons, with their tiny screens and tiny keyboards (challenging with those with orthopedic and intellectual disabilities), but many faced serious obstacles which will surely result in the need for remediation.

School districts in Texas and across the country scrambled to provide digital devices such as laptops and tablets to students. In addition, they scrambled to provide the mobile or portable "hotspots:" small devices with a subscription to an internet service provider such as Verizon for those students with no broadband subscription in their home. But the need was so overwhelming when entire districts were closed to face/face instruction that the penetration of these media to students and families failed to be universal, disproportionately affecting students living in poverty, students of color and students with disabilities.

In June of 2020, the Texas Education Agency released a report on students coded with a "crisis code" after experiencing impacts from COVID-19. Each district reported a code representing the degree to which the student was a) engaged (e.g., completed assignments) and

b) contactable (e.g., responsive to teacher outreach). As can be seen from the table below, 88.72% of all students were reported to be fully engaged in learning across the state.

Summary of Student Engagement-All Students

Pattern	Percentage of students reported
Fully engaged	88.72%
Engagement recovered	2.27%
No or lost engagement	7.23%
No or lost contact	1.78%

The report then broke down the engagement by race and ethnicity. As can be seen from the table below, Black/African American, Hawaiian/Pacific Islander and Hispanic students were much less engaged than White and Asian students. There was no data provided for native children.

Student Engagement Pattern by Race/Ethnicity

Pattern	Hispanic	Black/African American	White	Asian	Hawaiian/Pacific Islander	Two or more races
Fully engaged	86.66%	83.13%	93.65%	95.76%	86.9%	90.53%
Engagement recovered	2.72%	3.27%	1.27%	0.97%	2.37%	1.79%
No or lost engagement	8.47%	10.82%	4.22%	2.67%	8.17%	6.17%
No or lost contact	2.15%	2.78%	0.86%	0.59%	2.55%	1.5%

The engagement of students living in poverty was then broken down. Economically disadvantaged students were much more likely to have no or lost engagement (over three times as likely), or no engagement and lost contact (over twice as likely.)

Student Engagement Pattern by Economic Disadvantage

Pattern	Economically disadvantaged	Non-economically disadvantaged
Fully engaged	84.50%	95.18%
Engagement recovered	3.06%	1.07%
No or lost engagement	9.93%	3.10%

No or lost contact	2.52%	0.65%

According to Fernandez (2020), about 10% (approx. 500,000) of Texas public school students receive special education services in their schools, to address a wide range of challenges including cognitive, emotional, behavioral and physical. A review of the Texas Education Agency website did not uncover student engagement data broken down by those students receiving general education services versus special education services.

Does Texas allow municipalities to act as internet service providers?

According to Baller Stokes and Lide's 2020 report, "State restrictions on community broadband service or other public communications initiatives, there are nineteen states that 'still have substantial barriers to public communications initiatives and public-private broadband partnerships." According to the report, Texas Utilities Code, §54.2021 et seq.) prohibits municipalities and city electric companies from offering telecommunication service to the public in specific categories .

Silverman (2019) wrote about the internet journey of Mont Belvieu in east Texas, a town of 7, 500 residents, which suffered a local internet company with slow and spotty service for years. The major internet service providers neglected this rural community because it was considered by the companies unworth their while in terms of revenue. The service provided was abysmally slow or, depending on the area a home or business sits in, simply didn't exist at all. In a 2016 survey, almost 70% of the Mont Belvieu residents said that their internet service provider was not adequate. Eighty percent of the businesses surveyed agreed.

In June, 2018, the city offered an alternative called MB Link. It cost the city about $9 million to build and the estimates are that it will break even in 2025. The cost to residents is $75 a month for speeds of up to 1 gigabit per second. The city's preliminary study found that the cost of

analogous service from Comcast or Frontier Communications would have been priced at up to $280 per month. Mont Belvieu's MB Link ran fiber-optic lines to every subscriber's home. This is the connectivity that is most powerful and is increasingly necessary for more complex applications.

How did the community skirt the big telecommunications/cable companies as well as Texas law? First, they created a precedent trail by beginning the process of issuing municipal bonds to fund the project. The Texas attorney general urged them to seek an opinion on whether the municipal bonds to fund the city-provided internet service provider service was legal. A Chambers County judge approved the bonds and the process began.

This precedent, according to Silverman, may open the door for other similar projects.

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