

## Libraries and the Children's Internet Protection Act (CIPA)



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### I'm not a lawyer.



The following does not constitute legal advice.




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### When to comply with CIPA

- 1) If you apply for a **competitive grant** or **subsidy** from the state (paid for from the *Library Services and Technology Act (LSTA)*) and use the funds to buy computer equipment or Internet access.
- 2) If you apply for discounts with the **E-rate program** on Internet access, internal connections, and basic maintenance of internal connections.

Note: you can apply for telecommunications (voice telephony) and need not comply with CIPA




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### When to comply with CIPA



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### Why comply

Recent changes in E-rate program mean there is now:



### SUFFICIENT FUNDING

for networking hardware in the library  
– i.e. routers, switches, hubs, and wiring



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## CIPA's Goal

To protect children from obscene or harmful content over (federally funded) Internet access

Block or filter pictures that are:

- Obscene
- Child pornography
- Harmful to minors (on computers accessed by minors)



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## A bit about definitions

CIPA uses the federal criminal definitions for "obscenity", "child pornography", and "harmful to minors".

"Minor" is any individual under 17 years old.

"harmful to minors" is defined in the statute and in the E-rate rules as "any picture, image, graphic image file, or other visual depiction that – (i) taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion; (ii) depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and (iii) taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors."



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## Three Requirements

- 1) Technology Protection Measure (filtering)
- 2) Internet Access Policy
- 3) Notice of a public meeting or hearing



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## Filtering

- 1) Must be present on all of the library's computers
  - Even on staff computers (can be turned off though)
  - Does not need to be present on patron-owned devices
- 2) Must be set to block actual visual images that are obscene, child pornography, or harmful to minors
- 3) Must be able to disable upon request by adult user (17+) for bona fide research or other lawful purpose
  - No questions need to be asked by the library
  - Library should have a procedure in place to do this as quickly as possible



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THAT'S IT.



(in terms of what filtering should do)



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## Filtering

Do not need to block access to:

- Text-based material
- Controversial viewpoints/subjects
- Social media sites
- Search tools

Do not need to track or monitor users' web surfing habits



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## Filtering

Block access to **actual visual images** that are:

- obscene
- child pornography
- harmful to minors



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## Filtering

FCC: **“Maximum Flexibility”**



*“Local authorities are best situated to choose the technology measures and Internet safety policies most appropriate for their communities.”*



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## Filtering

FCC wants to provide

### *Considerable Latitude*

- No criteria for what constitutes effective filtering
- No endorsements of any particular software
- No adoption of rules that enforce particular filtering standard




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## Be First Amendment Friendly!

Disabling Methods:

- A sign-in page where an adult user can affirm that he or she intends to use the computer for bona fide research or other lawful purposes
- Use library card numbers to auto-verify age of user, and immediately disable filter or unblock without librarian being involved
- Other ideas?




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## ALA's Filtering Recommendations

1. Minimize the impact by selecting the most flexible filter possible
2. Maintain as much local control as possible
3. Use the lowest settings possible

> Block as little as possible, while staying consistent with CIPA (which only requires blocking images, which is the minimum)

> Do not be tempted to block "offensive" content just because it's easy to do

> Don't just do default settings - might be too high for CIPA

Source: ALA webcast : "Filtering: The Man in the Middle" (9/15/2016)




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## BE AWARE

HTTPS Encryption breaks the filter.

(widely used protocol for secure communication over a computer network)

Some filtering software offers settings for "https decryption" – to still allow encrypted communication to go through

**Problem is:** supposedly secure websites can now be monitored, inspected, logged (which compromises privacy & security)



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## Internet Safety Policy



Must include:

A technology protection measure that protects against access by adults and minors to visual depictions that are obscene, child pornography, or – with respect to use of computers with Internet access by minors – harmful to minors. "Minor" is defined as any individual who is under the age of 17

**Mention the filter.**



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## Internet Safety Policy

Must address these five elements:

1. Access by minors to inappropriate matter on the Internet and World Wide Web
2. The safety and security of minors when using electronic mail, chat rooms, and other forms of direct electronic communications
3. Unauthorized access including "hacking" and other unlawful activities by minors online
4. Unauthorized disclosure, use, and dissemination of personal information regarding minors
5. Measures designed to restrict minors' access to materials harmful to minors




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## Internet Safety Policy

- Use the language of CIPA - legal words and phrases such as "child pornography", "obscene", "obscenity," and "harmful to minors"
- Put in writing: Library is using filtering on all of computers owned by library
- Have lawyer review the policy
- Be careful: Don't say that something's filtered that is actually protected under First Amendment of U.S. Constitution




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## Public Notice and Hearing or Meeting

Provide reasonable public notice and hold at least one public hearing or meeting to address:

- the proposed filtering
- Internet Safety Policy

That's it. No need to mention CIPA by name.

And be sure to document it!

- Copy of a website announcement for a regular library board meeting open to the public where the policy will be discussed
- AD in a local newspaper of a county government meeting or hearing where the policy appears as an agenda item
- Copy of the minutes of the meeting or hearing and the date it occurred




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## Documenting CIPA Compliance

Retain copies for each funding year where a CIPA certification is required for at least 10 years after the latter of the last day of the applicable funding year or the service delivery deadline for the funding request.

1. A copy of the approved Internet Safety Policy with adoption date listed on it.
2. Documentation that library gave public notice and held a public meeting or hearing on the policy.
3. Documentation of the adoption of the policy – for example, approval in the minutes of the meeting or hearing, or documented adoption by library board.
4. A description of the filter.
5. A report or other documentation on the use of the filter, such as an invoice and proof of payment for the purchase of filtering equipment or software, and filter logs and screenshots of filter settings.
6. Copies of the FCC Form 479 and/or FCC Forms 486, as applicable.




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Thank you!

# Questions?

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